

California Historical Society

Quarterly

The British Vice Consul in California and the Events of 1846.....	99
Ernest A. Wiltsee	
The Struggle for Civil Government in California, 1846-1850.....	129
Chapter III—A Conflict of Theories	
Chapter IV—The Constitutional Convention and the Organization of a State Government	
Joseph Ellison	
“California’s Bantam Cock”— The Journals of Charles E. De Long, 1854-1863.....	165
(Continued)	
Edited by Carl I. Wheat	
Western History—A Check List of Recent Publications Relating to California and the West.....	202
Compiled by Charles L. Camp	
A Recent Book.....	205
Meetings of the Society.....	206
New Members.....	208

Vol. X, No. 2

June, 1931

CALIFORNIA HISTORICAL SOCIETY

Incorporated March 6, 1886

Reorganized March 27, 1922

BOARD OF DIRECTORS

C. O. G. Miller, *President*

Robert E. Cowan, *First Vice-President*

Sidney M. Ehrman, *Second Vice-President*

E. J. Molera, *Third Vice-President*

Anson S. Blake, *Secretary and Treasurer*

Charles L. Camp

George D. Lyman

Allen L. Chickering

Helen Throop Pratt

Frederick C. Clift

D. Q. Troy

Templeton Crocker

Douglas S. Watson

Francis P. Farquhar

Carl I. Wheat

COMMITTEE ON PUBLICATION

Carl I. Wheat, *Chairman*

Charles L. Camp

Francis P. Farquhar

Robert E. Cowan

Stella Huntington

Templeton Crocker

Garfield D. Merner

Charles P. Cutten

Helen Throop Pratt

Douglas S. Watson

COMMITTEE ON MEMBERSHIP

Ernest A. Wiltsee, *Chairman*

Mrs. George L. Cadwalader

A. T. Leonard, Jr., M. D.

Edward F. O'Day

COMMITTEE ON EXHIBITIONS

Douglas S. Watson, *Chairman*

Anson S. Blake

A. T. Leonard, Jr., M. D.

Frederick C. Clift

George D. Lyman, M. D.

John Howell

Miss Frances Molera

Miss Elizabeth Latham

Mrs. Francis Williams

Ernest A. Wiltsee

Office: Room 301, 609 Sutter Street, San Francisco

Corresponding Secretary: Dorothy H. Huggins

Comandante General
de la Alta California

Suplico el honor de acompañar a V.S. copia de
del 1. al 3 de las contestaciones hechas en
el Comodoro de las fuerzas navales de los Esta-
dos Unidos y la Comandancia General de
mi cargo, a fin de que V.S. n. impunga de la
conducta que he observado en medio de las
dificiles circunstancias en que me encuentro
y como no sea difícil que en caso de un arribo
de la guerra n. intente mancillar mi reputa-
cion, que conservare íntegra a todo trance, su-
plica a V.S. n. dignen tener estos documentos co-
mo prueba autentica de mi comportamiento
y de ponerlos, si fueren necesario en cono-
cimiento de la Nacion que han dignamen-
te representado

Con tal motivo suplico el honor de
reproducir a V.S. las protestas de mi dis-
tinguido aprecio y atenta consideracion

J. Castro

y Libertad Campo en la Nueva York 9 de Agosto 1846

José Castro

Vice Consul de L. M. B.
Don Diego Forbes

Quarterly of the California Historical Society

THE BRITISH VICE CONSUL IN CALIFORNIA AND THE EVENTS OF 1846

James Alexander Forbes, a native of Scotland, came to California in 1831; he had been wrecked in the South Seas and was rescued and brought to the coast by the whaler *Fanny*. He then became a clerk for Padre Viader at Santa Clara, and in July 1834 married Ana, a daughter of Juan C. Galindo. He was appointed British Vice Consul in 1842, assuming office in October 1843. He died in Oakland in 1881, aged 77 years.

In the stirring events of 1846, Mr. Forbes was the sole British representative on the Pacific Coast north of Mazatlan. On account of his marriage he was in close touch with the Californian leaders; who, as is always the case under such conditions, placed in him their fullest confidence.

There recently appeared in the Californiana collections of two collectors, Mr. Frederick C. Clift of San Francisco, and Mr. W. Parker Lyon of Pasadena, a number of documents, nearly all in Spanish, which were originally in a pasteboard carton and which had been in Mr. Forbes' possession ever since 1846. The writer first saw Mr. Lyon's items, and at once became interested as he saw that they contained original letters from the Californian leaders, General José Castro, Governor Pio Pico, and Sub-Prefect Francisco Guerrero. A careful study shows that they were of no little importance, as they shed light upon the events of the year 1846, in which year all but one are dated, the exception being a copy of the "Convenio" of San Fernando of 1845.

While our list of these documents, now for the first time brought to light, is not quite complete, it is fortunately widespread enough to give us information upon all the important events of that year, up to and including Castro's proclamation on leaving the country, and the Sanchez revolt shortly thereafter. The events to which the correspondence relates are chronologically as follows:

1. Frémont's hoisting of the United States Flag on the Gavilan Peak, March 6, 1846.
2. The Bear Flag insurrection, June 14, and incidents relating thereto.
3. Commodore Sloat's proclamation of July 6.
4. Correspondence between Governor Pio Pico, Vice Consul Forbes and Rear Admiral Seymour, June 23 to July 29.
5. The taking of Los Angeles by Stockton in August.

* EDITOR'S NOTE: The Publication Committee is gratified to publish this article with the accompanying newly-discovered documents. The Committee, however, disclaims responsibility for the opinions expressed by the writer, and will welcome further contributions to clear up the important matters herein discussed.

6. General Castro's proclamation on leaving the country, August 9.
7. The revolt of Francisco Sanchez, December 1846 and January 1847.

This correspondence is of much historic value, because it proves three important facts in the history of California now for the first time brought to light, *i.e.*:

First: That the Californian leaders were filing with Vice Consul Forbes carefully certified and translated documents covering all the principal events, with the design and intent of ultimately requesting the intervention of Great Britain, when the time should seem desirable.

Second: That Governor Pio Pico did request intervention by Great Britain to arrest the American attack, and did request Great Britain to take California under her protection.

Third: That the Sanchez revolt, never clearly understood by Bancroft or other historians, was not, as stated, an isolated outbreak due to Americans stealing cattle, but was the northern end of a universal Californian revolt against the Americans, thwarted, however, by the failure of the inhabitants of the central portion, Monterey, to join in.

These documents are of two classes. Those that were either original letters addressed to Mr. Forbes, or were copies of proclamations; and those that were documents which Mr. Forbes had entered upon what we may term his "blotter" (sixteen pages of large blue foolscap), upon which he copied documents in his own handwriting, the originals doubtless being forwarded to his government. This method was adopted by him to preserve a complete file.

The complete list of these documents, as well as their present ownership, in chronological order, is as follows:

1. Lyon Collection: Copy of the "convenio" at San Fernando, February 22, 1845, certified to by Juan Bandini. Endorsed on the back by Forbes: "Copy convenio at San Fernando."
2. Lyon Collection: Original letter of Francisco Guerrero dated San Francisco, March 11, 1846, addressed to the Vice Consul of Her Britannic Majesty, Don Diego A. Forbes. Endorsed on the back by Forbes: "Official from Sub-Prefect relative to Fremont Mar 11 1846."
3. Lyon Collection: Copy from "blotter" of Vice Consul Forbes. Despatch of Thomas O. Larkin, U. S. Vice Consul, dated March 6, 1846, to Don Manuel Diaz, Alcalde of Monterey.
4. Lyon Collection: From Forbes' "blotter." Copy of Frémont's note to Larkin, which accompanied No. 3 and was also sent to Alcalde Diaz. Undated.
5. Lyon Collection: Original letter of General José Castro, which enclosed Nos. 3 and 4, to Vice Consul Forbes. Undated.
6. Lyon Collection: Proclamation of General José Castro, concerning Frémont, dated San Juan Bautista, March 13, 1846. Certified to by Pio Pico as a correct copy and sent to Forbes. Endorsed on the back by Forbes: "Jose Castro's Proclamation relative to Fremont."

7. Lyon Collection: From Forbes' "blotter." Copy of letter of General Castro dated Santa Clara, June 17, 1846, to Commander of the American Corvette of War *Portsmouth*.
- 8 and 9. Lyon Collection: From Forbes' "blotter." Copy of letter from Captain J. B. Montgomery of the *Portsmouth*, dated June 18, addressed to General José Castro at Santa Clara.
10. Lyon Collection: Copy of Ide's "Bear Flag" proclamation, translated by W. E. Hartnell, certified to by José Matias Moreno, and bearing a crude sketch of the Bear Flag with colors indicated. This accompanied No. 12 and was endorsed on the back by Forbes: "Proclamation of Hyde and the Official Notice of Same."
11. Clift Collection: Copy of Commodore Sloat's proclamation of July 6, 1846 (in English), endorsed on the back by Forbes: "Commodore Sloat's Proclamation."
12. Clift Collection: Original letter of Governor Pio Pico, dated Santa Barbara June 29, 1846, to "Vice Consul S. B. M. Don Diego A. Forbes," accompanied by No. 10.
13. Lyon Collection: Original letter of Governor Pio Pico, dated "Angeles July 29, 1846," addressed to "Diego Alex^o Forbes, Vice Consul of Her Britannic Majesty in California." Endorsed on the back by Forbes: "Official from Pio Pico acknowledging receipt of R. Admiral Seymour's despatch of the 23 July 46, 29th July."
14. Lyon Collection: Original letter of General Castro, dated "Camp on the Mesa Aug. 9, 1846," addressed to "Vice Consul de S. M. B. Don Diego Forbes," and endorsed on the back by Forbes: "Jose Castro with copies of correspondence Agosto 9 1846."
15. Lyon Collection: Copy in Spanish of Admiral Stockton's letter of August 7, 1846, addressed to the Comandante General of Alta California, signed with José Castro's original signature (to certify genuineness) and endorsed on the back by Forbes: "Copy of Com Stocktons letter to Gen Castro St Pedro Aug 7 46."
16. Clift Collection: Copy of despatch of General José Castro, dated Camp on the Mesa Aug 9 1846, to the "Commodore of the Naval Forces of the U. S. A. in the Pacific." Signed with José Castro's original signature to guarantee genuineness.
17. Lyon Collection: "Copy of Castro's proclamation on leaving the country, dated "Camp on the Mesa" Aug 9 1846, signed with Castro's original signature to certify genuineness, and endorsed on the back by Forbes: "Castro's Proclamation to his Countrymen on leaving for Sonora."
18. Clift Collection: Dated Santa Clara, Jan. 7, 1847, despatch containing portion or all of letter, headed "Frigate of the U. S. Savannah Yerba Buena Jan. 5 1847," and endorsed on the back by Forbes: "Extract of Orders from Capt Mervine to Capt Marston relative to capitulation."

19. Lyon Collection: Document in handwriting of Vice Consul Forbes, marked "Duplicate No 1" and endorsed on the back by Forbes: "Copy Jas Alex Forbes relative to fight at Santa Clara."

Several of these despatches, all of which are in Spanish, have been published in English in this *Quarterly*, and to save space will be omitted here, except when they are required for comment. But they are all valuable in this connection, as evidencing how completely the Californian leaders were filing everything of importance with Vice Consul Forbes.

We will now take them up in order and comment upon them.

No. 1. "Convenio" at San Fernando. This was printed in Bancroft's *History of California*, Vol. IV, page 509, and is therefore not here reproduced.

No. 2. This original letter of Francisco Guerrero, Sub-Prefect of the Second District, is addressed to Forbes and has never been published. We, therefore, give the translation and a reproduction of this interesting despatch. It is endorsed on the back by Forbes: "Official from Sub-Prefect relative to Frémont Mar 11 1846."

No. 2

Sub Prefecture
of the 2d District.

I have on this date received from the Prefecture an official letter in which I am informed of the following facts. The laws and integrity of the country are violated by the Captain of the Army of the United States, Don J. C. Fremont, with an armed force. Therefore it has been demanded by the Prefecture and the Commanding General, that he withdraw from the limits of the Department. He has disobeyed this and has placed his force in a hostile position, also hoisting the flag of his nation on a peak of the Sierra Gavilan, seeking to exercise arbitrarily a dominion over all the pueblos of the District.

In such circumstances as surround us, I have believed it my duty to place them in your knowledge, and pointing out the importance of your exerting your authority, to the end which concerns you; so that as Vice-Consul of Her Britannic Majesty you may cooperate to repress and avoid as far as possible that any of the subjects of Her Majesty may interfere against the cause of the country and the Mexican Nation, and meanwhile, that the business may be decided or terminated in whatever manner it may be deemed fitting by the Government.

Remaining then assured of your efficient cooperation as above indicated, I take the opportunity of reiterating my consideration and respect.

God and Liberty! San Francisco, March 11, 1846.

FRANCISCO GUERRERO
[Rubric]

To the Vice-Consul of Her Britannic Majesty
Don Diego A. Forbes

This letter is of interest, as it shows that Guerrero was keeping the British Vice Consul in touch with all the incidents that had occurred with regard to Frémont, and was requesting his cooperation to prevent any of his nationals from interfering against the government. This was hardly necessary, as no British subject, as far as we know, had any idea of favoring American pretensions, but much to the contrary.

Nos. 3, 4 and 5. From Forbes' "blotter."

Despatch No. 4 has been printed in this *Quarterly* (Vol. III, page 282), but since it, together with No. 3, accompanied Castro's interesting letter to Vice Consul Forbes, which is No. 5, in order to get the sequence of events and the full

significance of this procedure of filing with the British Vice Consul, these despatches are all reproduced here. We therefore commence with Larkin's despatch to Don Manuel Diaz which appears first in the "blotter" and follow with Frémont's despatch to Larkin and Larkin's following despatch to Don Manuel Diaz which accompanied it. These despatches are all in Spanish on Forbes' "blotter." The English translations follow.

No. 3

Consulate of the United States
Monterey, March 6, 1846

Sir:—

I do not know whether Captain Fremont will approve my giving you a translation of the letter which he wrote with so much haste. But, as you permitted my letter to go to the country and his to return here, in the hope that said letter can lead to a settlement of the business I send the translation that you asked me for. You know that the authorities of the Department keep everything from me, as the Consul of the United States in the actual state of affairs. I do not observe, I do not know, what I can do. I have offered my services when they judge them necessary. I now turn to offer them to you in writing. Captain Fremont has his own instructions, and is not subject to this consulate. Nevertheless I will with pleasure mitigate the actual feeling, if I can. I can only respectfully request that when you see the General today, tell him that I take the liberty of proposing that he send a letter to Captain Fremont, requesting a conversation of an hour before proceeding to take any strong measures; for it is my firm opinion that if he attacks this officer, he will have much blood shed which can cause not only the loss of lives, of those who are actually engaged on one side or the other, but also much expense and work and probably more deaths, among many of the citizens of both nations, and I am satisfied that no advantage, either present or future, will be secured for the country, under the aspect which the actual circumstances present.

I have reasons for believing that Captain Fremont only desires a few days to rest his horses (having already bought his provisions), and that he expects to leave California immediately. But he won't be able to do so, should he encounter a body of men with hostile intent to him. I will appreciate it if you will send a copy of this to the Comandante General Don Jose Castro.

I have the honor to be,
THOMAS O. LARKIN

Señor Alcalde of Monterey,
Don Manuel Diaz.

I certify that this is a true copy of the original.
GUILLERMO E. HARTNELL.

This is a copy.
MANUEL DIAZ

The date of Larkin's note is March 6, 1846. It was translated into Spanish by William E. Hartnell, who was the official translator for the local government officials. Manuel Diaz certifies that it is a copy. (A contemporary English translation of the above letter, slightly differing in language and dated March 10, 1846, was printed in this *Quarterly*, Vol. III, pp. 286-87, from the Sloat Documents in the Templeton Crocker Collection.)

No. 4

My dear Sir:

[March 9, 1846]

At this moment I have just received the letters from you; and without waiting to read them, I acknowledge their receipt as the courier returns immediately.

I am fortifying myself as well as possible with the intention that, if we are attacked unjustly, we will fight to the last extremity without giving way, in the confidence that our country will avenge our death. No one has arrived at my camp and from the heights we can see with the glasses a troop that is being assembled in San Juan and preparing cannons. I am much obliged to you for your kindness and good wishes, and would have written more fully with respect to my intentions, if I were not afraid that the letter would be intercepted.

We have done no injury to the people or to the authorities of the country; and if they surround and assault us, here we will die to the last man under the flag of our country.

Very truly yours,

J. C. FREMONT.

P. S. I am camped on the crest of the Sierra on the headwaters of a stream which leads off the road from Monterey near the house of Don Joaquin Gomez.

I certify that this is a true translation of the original.

WILLIAM E. HARTNELL.

That which precedes is a translation of a letter written by Captain Fremont, which I received last night at 8 o'clock, and I have permitted its translation at the request of Don Manuel Diaz, Alcalde of Monterey (he having yesterday given a passport to our courier to go to the camp and return), in the hope that I can mitigate the existing feeling, and that matters may adjust themselves, and also that the authorities may not believe that I have any unlawful correspondence with Captain Fremont.

Consulate of the United States of North America, Monterey, March 10, 1846

THOMAS O. LARKIN

This is a copy of the original.

MANUEL DIAZ.

Frémont's note is undated, but the footnote of the accompanying note to Diaz from the Consulate of the United States at Monterey is dated March 10, and Diaz certifies to the copies of both.

There now appears on the Forbes blotter a copy of a letter of Castro's which I consider of value as showing the intimate relations between him and the British Vice Consul. It enclosed to Forbes the foregoing important letter of Larkin with the letter of Frémont, both carefully translated into Spanish by the official translator. It is therefore particularly noteworthy as showing the close relationship and the fullness of General Castro's filing of all documents of importance, carefully translated into Spanish by the official translator, with the British Vice Consul.

From the fact that the originals of these letters were not found in the carton which contained these documents, it is quite probable that Vice Consul Forbes wrote these copies on his blotter, forwarding the originals to the higher representatives of his government, and thus providing himself with his own record. The translation follows:

No. 5

My very dear friend:

Three days since Captain Fremont abandoned his ridiculous fortification, making his retreat in a complete withdrawal, taking the road to the Tulares, leaving in perpetual memory of his heroism the hoisting of the flag of his country on the highest part of the Sierra Gavilan, where he unfurled the flag of the United States.

I accompany herewith to you copies of a letter which this shameless American wrote to the consul of his nation in Monterey. Today I have dispersed all the citizens who are united here; they went back to their work and I have remained here with a force of thirty men, in case there may be any more of this muttonous business of the Gavilan.

I am your friend and servant, I kiss your hand

JOSE CASTRO.

No. 6. The next despatch is the proclamation of General Castro concerning Frémont. It has been published in Bancroft (Vol. V, p. 19) and in this *Quarterly* (Vol. IV, p. 384-5) and it is not necessary to reproduce it here.

No. 7. This despatch is also from Forbes' "blotter." It is dated at Santa Clara and addressed to the Commander of the American Corvette *Portsmouth* at Sausalito. The translation follows:

No. 7

General Headquarters of Upper California.

The undersigned Commanding General of the Department has the honor to direct himself to you, asking declarations concerning the observed conduct of Captain Fremont, who, without the established formalities between civilized nations, invades this country, rupturing national and personal interests, taking possession of the plaza of Sonoma, taking prisoners Colonel Don Mariano G. Vallejo, Lieutenant Colonel Don Victor Prudon, Captain Don Salvador Vallejo, and Don Jacob Leese. These scandalous events compel me to hope for an answer from you with the certainty that he who signs below will view with pleasure whatever your answer may be.

God and Liberty! General Headquarters Santa Clara, June 17th, 1846.

JOSÉ CASTRO.

To the Commander of the American Corvette of War, "Portsmouth," Harbor of San Francisco.

(Lieut. Washington Bartlett's translation of the above despatch was printed in this *Quarterly*, Vol. II, p. 69.)

Castro was watching Frémont very closely at Sonoma. As Ide only formulated his proclamation and took his prisoners on the 14th of June, Castro at once wrote the Commander of the American forces in the district, *the day before the actual issuance of the Bear Flag proclamation*, Castro's despatch being dated Santa Clara June 17th, and the date of the Bear Flag proclamation being June 18th. As the despatch was dated at Santa Clara, the residence of Vice-Consul Forbes, it might easily have been that it was written after consultation with the British Vice Consul, for Castro's headquarters were at San Juan Bautista. It certainly was a clever move on Castro's part. He did not even know Montgomery's name and therefore addressed his despatch to the "Commander of the American Corvette of War Portsmouth." Certainly he lost no time in getting the facts before the British Vice Consul, who at once entered the despatch on his "blotter."

Nos. 8 and 9. From Forbes' "blotter." Although printed in this *Quarterly*, (Vol. II, pp. 69-71) this despatch is reproduced here because of slight differences that exist between it and the American version, and also because it is necessary for comment in the sequence of these despatches. The American version curiously omits a short paragraph: "The Alcalde of the same place continued in employment of his office is the honorable testimony to this proof." Forbes on the other hand also omits a few lines. It is curious that on the blotter our No. 8 immediately follows No. 7, Castro's despatch to the Commander of the *Portsmouth*, and No. 9 follows No. 8. But on comparison with the American version, they would seem to be parts of the same translated American despatch, and it is quite evident that No. 8 is the concluding part, instead of No. 9. The translations follow:

No. 8

The undersigned Commander of the Frigate "Portsmouth" of the United States, with due respect to the high attention of General Jose Castro, requests and insists that under the circumstances related it is necessary to take into consideration the belligerent demonstration made against the scientific party of Captain Fremont, which in last March was entirely voluntary on the part of General Castro, having no necessity,

obligation, or expediency, for its justification; and furthermore, the same Commander declares that he is entirely without knowledge or information in what manner the Commanding General of California maintains the impossible assumption of the cooperation of an official of the United States Navy in the recent transaction at Sonoma, by this means impugning the integrity of the Government of the United States.

The undersigned concludes, resenting the supposition that Don Jose Castro could possibly have intended the imputation named in the preceding paragraph, and greatly regrets that the tenor of the communication of General Don Jose Castro of yesterday, to which this is an answer, was not limited solely to the simple interrogation with regard to the position of Captain Fremont in the Department, without resorting to the calumnious imputation so lightly conferred by the Commanding General of Alta California upon an official of the United States.

J. B. MONTGOMERY.

To General Jose Castro,
Commander of the Forces of Alta California,
At Santa Clara.
Received on the 18th June.

No. 9

Corvette of War of the United States "Portsmouth"
Anchored in Sausalito, June 18th, 1846.

The undersigned Commander of the United States Frigate "Portsmouth" has the honor to acknowledge the receipt of the note of General Jose Castro, dated yesterday, and in reply assures General Castro his entire conviction that the visit of Captain J. C. Fremont, topographical engineer, has reference to scientific observations and that he is in no way permitted by the government of the United States to have any connection with the political upheaval of this country at Sonoma. The undersigned takes pleasure in communicating to the Commanding General, that at the instance of General Mariano Vallejo, by his messenger Don Jose de la Rosa, an official of the Frigate "Portsmouth" was despatched promptly to make protests to the Chief who is in possession of Sonoma, in favor of the families of the officials who are prisoners, with a view to their protection; and having examined their persons, properties, and privileges, I take pleasure in informing General Castro, that on the arrival of the officials of the vessel at Sonoma, far from the anarchy and disorder which General Mariano G. Vallejo understood was the case he found the most perfect order and quiet prevailing in the place, and that in every instance there had been on their part by the direction of the capturers, a delicate veneration and attention concerning the happiness and protection of all.

The Alcalde of the same place continued in employment in his own office, is the honorable testimony to this truth.

The undersigned finds it necessary to improve the opportunity which presents itself to express to General Castro his sincere surprise that with the facilities of obtaining correct information of the incidents transpiring within his department, and under his observation, he should the second time have fallen into an error with respect to the designs and operations of a scientific party, whose arrival in the vicinity had been preceded by a visit and explanation to General Castro, and the authorities of Monterey.

Evidently Castro's despatch found Montgomery in a rather awkward position. He had much to explain, and did not know how to explain it. He retorted strongly concerning Castro's threats to Frémont in March which led to the Gavilan affair. All this information Montgomery had doubtless received from Larkin who, of course, was thoroughly conversant with that entire incident. And that was about all he had to offer in reply to Castro's disconcerting and pointed despatch.

In connection with this despatch of Montgomery's to Castro, evidently much stress and vehement declaration was being made to the effect that Frémont was not concerned in the Bear Flag affair at Sonoma. The second document relates that an officer had been sent to Sonoma at Vallejo's request, to ascertain

whether any of his family or possessions were being violated. Just how much Frémont had to do with inspiring the Bear Flag revolution we will probably never know. I am strongly of the opinion that he inspired it, but did not desire the fact known. What verbal message Gillespie brought to Frémont near Klamath, which caused him to turn south, will also never be known. But at least there was sufficient to cause him to abandon his trip to Oregon, turn south on the 8th of May, and take the course which he did with regard to the "Bear Flag" uprising, which he immediately thereafter joined, *all the denials of the U. S. Naval officers to the contrary notwithstanding*. I am of the opinion that Gillespie brought word of the fact that war would take place between the United States and Mexico, although war had not yet been formally declared; that the United States would eventually declare war against Mexico; that Frémont was to see that California was taken for the United States, but to keep his hand covered as much as possible, until war was actually declared, and that the Naval forces were instructed to assist him to the fullest extent. This would be only a reasonable and wise precaution. As a matter of fact, a state of war was declared to exist between the United States and Mexico on the 11th of May, about one month before the Sonoma uprising. But no one knew it for a certainty until the U. S. S. *Warren* arrived with despatches for Stockton at Monterey on the 12th of August, which despatches Stockton received on the 17th of that month at Los Angeles when the first messenger reached him.

The government knew Frémont and his iron nerve; its officials knew they could trust him to carry out any instruction to the letter, but they did not want him to show his hand until war was actually declared, or unless it became necessary, is my firm conviction.

Bancroft's idea of Frémont's reasons for turning south from Klamath displays his utter lack of judgment in interpreting these historical facts. He believes that Frémont was actually turned from proceeding into Oregon by deep snow. As the date was May 8, to any one who knows the Coast as Bancroft did, such reasoning was little short of absurd, particularly when we take into consideration Frémont's well known proclivity for going anywhere at any time. In Bancroft's footnote (Vol. V, p. 28, n. 54), he states: "April 25, Leidesdorff to Larkin. Gillespie to start in a few hours. Glorious news for Frémont! I think I can see him smile. By your letters it appears that the news is not generally known; however, they must have had some news, as the Sub-Prefect is busy dispatching couriers. . . ."

What news? Leidesdorff and Larkin must have had the news from Gillespie that Frémont was to act and that hostilities had begun, for they also suspected that the Sub-Prefect had "some news" and was dispatching couriers. And in the face of this very footnote Bancroft believed that after Gillespie met Frémont they turned back on account of heavy snow! Of such unfortunate judgment is this historian where Frémont is concerned.

As to Montgomery in command of the *Portsmouth*, he had not yet personally met Frémont on the 18th of June. But a careful study of the despatches known

as the "Sloat Correspondence" in the Society's possession the whole, while yet personally unknown to each other, Frémont and Montgomery engaged in a lively correspondence that leaves little doubt in the mind of a careful reader that they had full cognizance of the parts that they were actually to play. On June 3, Montgomery had written a long letter to Frémont, replete with cautious phrases of what may be termed the "cover up" variety. Though this despatch has been printed in this *Quarterly* (Vol. VI, p. 263), and Frémont's *Memoirs* (p. 518), it is so significant in connection with the immediate events of the Conquest that it is reproduced in full here.

U. S. Ship Portsmouth,
Bay of San Francisco
June 3d, 1846

Sir:

On the 31st ulto. the day previous to my sailing from Monterey a courier from Lieut. Gillespie to the U. States Consul arrived bringing the only exact intelligence of your movements & position since my arrival at that port on the 22d of April last. The instructions under which I am now serving & which may detain me until late in the fall, or longer upon this coast, have relation specially to the objects of affording protection to the persons & property of Citizens of the U. States & of maintaining a watchful care over the General interests of our Country, Without reference in any manner to the enterprise in which you are so actively engaged; the nature & subject of which, except, so far as I may have been rightly informed by paragraphs casually met with in public prints I am totally ignorant.

I beg leave however, (availing myself of the return of the Messenger) to assure you Sir of the interest I feel in the successful prosecution & Issue of the public interests committed to your direction, and without desiring information further than you may deem necessary, to enable me to aid & facilitate your operations, to express my sincere desire & readiness to serve you in any manner consistent with other duties.

Permit me to say Sir that if you should find it convenient to visit the U. S. Ship Portsmouth during her stay in this port, that I with the officers of the Ship — will be most happy to see you.

I shall remain here probably three weeks unless unforeseen circumstances requiring an earlier movement & my present intention is to return to Monterey

I am Sir Very Respectfully,

Jno. B. MONTGOMERY

U. S. N.

To
Capt. J. C. Frémont
Upper California

On June 9, Gillespie addressed a letter to Montgomery, requesting supplies and money for Frémont. He wanted \$1500.00 with which to buy horses, Frémont's being worn out and in no condition to leave on the march to the States! The first part of the requisition was of a military nature, ten coats and 8,000 caps, also five barrels of flour, etc., etc. And the Bear Flag was only six days away!

On June 10, Montgomery sent Frémont the following important despatch. Again it is necessary to read a little between the lines. (Mr. Teasdale on Crocker's Sloat Manuscripts, printed in this *Quarterly* Vol. VI, p. 263, and printed in Frémont's *Memoirs*, p. 519.)

U. S. Ship Portsmouth
Bay of San Francisco
June 10th 1846

Sir

Since writing you by Neal on the 3d. Inst. I have been by Lieut. Gillespie informed of your present position and circumstances and made acquainted with your design soon to proceed South with your party as far as Santa Barbara before striking

across the country for the U. States. I am also informed by Lieut. G. of your having expressed to him a desire for the presence of a vessel of war at Santa Barbara, during the period of your temporary sojourn in the vicinity of that port.

Now Sir I am happy to say that I feel myself at liberty to visit any or all ports upon this coast should the public interests require it & if on receipt of this you shall still think that the presence of a Ship of War at Santa Barbara may prove serviceable to you in carrying out the views of our Government & will do me the favor by the return boat to communicate your wishes with information as to the time you will probably reach that part of the coast I will not fail (providence permitting) to meet you there with the Portsmouth.

I feel Gratified Sir in having it in my power to forward you by Lt. Hunter the amt. of funds asked for in your name by Lieut. Gillespie with most of the articles of Stores &c. required to meet the demand of your urgent necessity regretting only, my inability to furnish the whole. You will oblige me by signing the Requisitions & Receipts annexed to the several invoices transmitted by Lt. Hunter, & with a view to the settlement of Purser James H. Warmouth's acct. at the Navy Department, be pleased to give an order or bill (in duplicate) on the proper Dept. of Government, payable to Purser Warmouth's order to the Lt. Auditor of the Treasury for the aggregate amt. of money & Purser's Stores Supplied.

Articles having no prices affixed need only to be receipted for.

Lieut. Gillespie informs me that you may find it convenient to visit the Portsmouth at Santa Barbara should we have occasion to go there. With this prospect in view I beg leave again to assure you that we shall all on board be most happy to see you.

Very Respectfully

I am Sir Your Ob't Servant

J^{no} B. MONTGOMERY

Commander U. S. N.

To
Capt. J. C. Fremont
Bt. Capt. U. S. Topl. Engineers
U. California

On the 16th Fremont wrote to Montgomery from New Helvetia as follows
(Despatch printed in this *Quarterly* Vol. VI, p. 274):

I had the gratification to receive on the 6th, your letter of the 3d instant; and the further gratification to receive yesterday by the hands of Lieut. Hunter, your favor of the 10th, conveying to me assurances of your disposition to do anything within the scope of your instructions to facilitate the public service in which I am engaged. In acknowledging the receipt of the stores with which you have supplied us, I beg you to receive the earnest thanks of myself and party for the prompt and active kindness which we are all in a condition fully to appreciate. My time today has been so constantly engrossed that I could make no opportunity to write and as it is now nearly midnight you will permit me to refer you to Lieutenant Hunter for an account of the condition of the country, which will doubtless have much interest for you. The people here have made some movements with the view of establishing a settled and stable government which may give security to their persons and property. This evening I was interrupted in a note to yourself by the arrival of Genl Vallesjo and other officers, who had been taken prisoners & insisted on surrendering to me. The people and authorities of the country persist in connecting me with every movement of the foreigners, & I am in hourly expectation of the approach of Genl. Castro.

My position has consequently become a difficult one. The unexpected hostility which has been exercised towards us on the part of the military authorities of California has entirely deranged the plan of our Survey & frustrated my intention of examining the Colorado of the Gulf of California, which was one of the principal objects of this expedition.

The suffering to which my party would be unavoidably exposed at this advanced period of the year by deprivation of water during intervals of three & four days, renders any movement in that direction impracticable.

It is therefore my present intention to abandon the farther prosecution of our exploration & proceed immediately across the mountainous country to the eastward in the direction of the head waters of the Arkansas river, & thence to the frontier of Missouri, where I expect to arrive early in September. In order to recruit my animals & arrange my equipage for a long journey, I shall necessarily be compelled to remain here untill about the first of July. In the mean time should any thing be attempted

against me, I cannot, consistently with my own feelings & respect for the National character of the duty in which I am engaged, permit a repetition of the recent insults we have received from Gen^l. Castro. If therefore any hostile movements are made in this direction I will most assuredly meet or anticipate them; and with such intentions I am regulating my conduct to the people here. The nature of my instructions & the peaceful nature of our operations, do not contemplate any active hostility on my part even in the event of war between the two countries; and therefore although I am resolved to take such active and precautionary measures as I shall judge necessary for our safety, I am not authorized to ask from you any other than such assistance, as without incurring yourself unusual responsibility, you would feel at liberty to afford me. Such an emergency could not have been anticipated in any instructions; but between indians on the one hand and a hostile people on the other, I trust that our Government will not severely censure any efforts to which we may be driven in defence of our lives & character. In this condition of things I can only then urgently request that you will remain with the Portsmouth in the Bay of San Francisco, where your presence will operate strongly to check proceedings against us; and I would feel much more security in my position should you judge it advisable to keep open a communication with me by means of your boats. In this way you would receive the earliest information, and you might possibly spare us the aid of one of your surgeons in case of accident here. Repeating my thanks for the assistance you have rendered us and regretting my inability to visit you on board the Portsmouth,

I am Sir, Very Respectfully

Your Ob't. Serv't.

J. C. FRÉMONT

Bt. Capt. U. S. Topl

Engineers U. S. Army

Capt. Jn^o B Montgomery
U. S. Ship Portsmouth
Bay of San Francisco
California

The Bear Flag revolt was even then in progress, and it is noticeable that in the first paragraph Frémont uses almost the same phrasing which Ide embodies in his proclamation of the 15th. The movement had started June 14th. And it was with all this news in his knowledge that Montgomery received Castro's pointed despatch of the 17th from Santa Clara.

With these facts clearly before us, we are led to inquire by what queer conversion of authority could a lieutenant of the Topographical Survey have the right to order the captain of a warship to meet him at Santa Barbara three hundred inconvenient miles away? Why should the commander of the warship, far outranking him, obey his slightest behest, conveyed orally by a third person? And why should Captain Montgomery, after stating that he is totally ignorant of the nature of Frémont's enterprise, in the next sentence express his sincere desire and readiness to aid and facilitate his operations? Furthermore why should Frémont, with his band of sixty-seven men who had traversed most fearlessly the wild continent, its pitiless deserts, and all existing hostile Indian tribes, have suddenly imbibed so much timidity that they should need a warship to come three hundred miles to see them start off on their journey to the United States?

This most significant despatch of Frémont's shows clearly how he was hiding his real intentions in a long flow of words. Possibly he was afraid that it would be intercepted. He says that he intended to abandon his explorations and proceed East. The nature of his instructions did not contemplate any hostility on his part even in the event of war. He did not want any assistance from Montgomery except what he would feel at liberty to afford. But, in his final paragraph he did

urgently request the *Portsmouth* to remain in the Bay of San Francisco. And he would feel much more secure should communication by boat be kept open. And possibly a surgeon could be spared in case of accident! Were not these last requests the real purports of his long letter?

Who was threatening Frémont in his security at Sutter's Fort? And why all this sudden necessity for surgeons, etc.? The sequence of events would seem to show what was in Frémont's mind. The Bear Flag revolt started June 14. He wrote this letter to Montgomery on the 16th. On the 23d he moved from Sutter's Fort to place himself at the head of the Sonoma revolters. On the 25th he arrived at Sonoma and headed the revolt. On the 28th fighting began and Frémont's forces killed three Californians.

Were not these letters all written by men working together to attain a common object, but keeping that knowledge well covered in case of interception of despatches, and particularly as their intention could not be revealed until war between Mexico and the United States had been actually declared?

Gillespie had evidently, under definite instructions, communicated the Government's plans and intentions as fully to the naval officers as he had to Frémont, and the result was close collaboration on the part of each. They knew that they were working quickly and in the face of danger from an outside force. But it is evident that Frémont was in supreme command until the arrival of Commodore Sloat and the fleet. And those instructions of Gillespie's even if never to this day made public, seem to the writer to be perfectly transparent from the course of the events which they induced.

As to Gillespie, when he left the East a state of war existed between Texas and Mexico. In April 1845, Congress accepted the joint resolution for the annexation of Texas. General Almonte, Mexican Minister, protested, demanded his passports, and left for Mexico.

June 4, 1845, President Herrera issued a proclamation declaring Texas Mexican property, and his determination to defend it by arms.

In July, 1845, General Zachary Taylor was ordered to Texas to take a position near the Rio Grande.

December 1, 1845, Texas was received into the Union. It was considered that war was a foregone conclusion. Gillespie left before this, but from what had already happened the Government doubtless knew that Texas would be admitted early in December. President Polk declared that a state of war existed, May 11, 1846. The Mexican Government declared war on May 23, 1846. As we have seen, the news of this declaration was not received on the Coast until August 12 at Monterey, and by Commodore Stockton on August 17. But were the Californian officials in the same ignorance? It is not likely. Communication between the United States and California was almost impossible; but speedy couriers could come from Sonora to Los Angeles in two or three weeks. It is probable, if not certain, that the Californians had knowledge of the declaration by the middle of June or thereabouts. This would account for the wording of Pio Pico's following despatch to Forbes of June 29, in which he states: "The undersigned

has not had *confirmed* news that there has been an open declaration of war with that power." Maybe not, but his language implies that he had knowledge of it, even if not yet an official confirmation.

No. 10. The Bear Flag Proclamation. This is introduced here for comment and because of the entirely different construction of the flag in the Californian version. It was translated into Spanish by William E. Hartnell, the official translator, and certified to by José Moreno, Pio Pico's secretary. The re-translation into English follows here. This certified copy of the Bear Flag proclamation in Spanish accompanied Pio Pico's letter of June 29 which is despatch No. 12 below. The Californian version of the proclamation follows:

No. 10

The Commander-in-chief of the troops assembled at the fortress of Sonoma, gives his inviolable pledge to all persons in California not found under arms, that they shall not be disturbed in their persons, their property, or social relations, one with another, by men under his command.

He also solemnly declares his object to be: First, to defend himself and companions in arms, who were invited to this country by a promise of lands on which to settle themselves and families; who were also promised a republican government; when having arrived in California, they were denied the privilege of buying or renting lands of their friends; who, instead of being allowed to participate in, or being protected by, a republican government, were oppressed by a military despotism; who were even threatened by proclamation, by the chief officers of the aforesaid despotism with extermination if they should not depart out of the country, leaving all their property, arms, and beasts of burden; and thus deprived of their means of flight or defense, were to be driven through deserts inhabited by hostile Indians to their certain destruction.

To overthrow a government which has seized upon the property of the Missions for its individual aggrandizement, which has ruined and shamefully oppressed the laboring people of California, by enormous exactions on goods imported into the country, is the determined purpose of the brave men who are associated under my command.

I also solmenly declare my object, in the second place, to be to invite all peaceable and good citizens of California who are friendly to the maintenance of good order and equal rights, and I do hereby invite them to repair to my camp at Sonoma, without delay, to assist us in establishing and perpetuating a republican government, which shall secure to all civil and religious liberty; which shall encourage virtue and literature; which shall leave unshackled by fetters, agriculture, commerce, and manufactures.

I further declare, that I rely upon the rectitude of our intentions, the favor of Heaven, and the bravery of those who are bound and associated with me, by the principles of self-preservation, by the love of truth, and the hatred of tyranny, for my hopes of success.

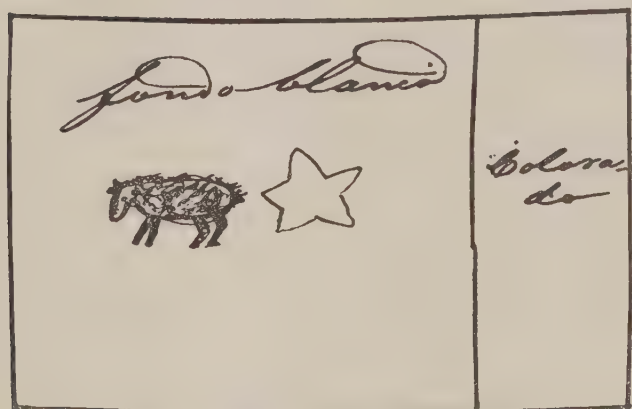
I furthermore declare that I believe that a government to be prosperous and happy, must originate with the people, who are friendly to its existence; that the citizens are its guardians, the officers, its servants, its glory, its reward.

WILLIAM B. IDE.

Headquarters, Sonoma, June 18, 1846.

This copy taken from the original translated by Mr. William Hartnell.

Bandera



This true copy was taken from the original letter which exists in the office in my charge and certified Santa Barbara, June 29, 1846.

JOSÉ MATIAS MORENO.

The original Proclamation, as drawn by Ide, was dated June 15, but I believe it was not issued on that date. His "Biographical Sketch" states that Lieutenant Missroon asked for a copy on the evening of the 17th and they had none. Also that Lieutenant Missroon read the proclamation to the garrison on the morning of the 18th, and that it was issued on that date. Thus the proclamation that the Californian officials copied and sent to Forbes was actually dated June 18, and I have given it as found on the copy sent to Forbes by them. Ide states that many of his men were fearful of issuing the proclamation, lest it might incriminate them, and that it was not actually issued until Lieutenant Missroon himself read it to the garrison, and returned and said "every man has approved the proclamation, and has sworn to sustain its principles."

In this connection the following queries suggest themselves. After Montgomery sent Missroon, at Vallejo's request, to see whether his family and property were protected, and after Missroon found everything quiet, why should Montgomery have sent him back the next day?

And on Missroon's arrival, why should he ask for a copy of the proclamation? Of which they had none!

And why, the next morning, after having a copy, should Missroon have read it to the garrison?

And why, having read it, should he have returned to Ide, and have said "Every man has approved it and has sworn to uphold its principles."

It seems perfectly clear that Frémont, Gillespie, Montgomery, and even their subordinates were working carefully together. Castro did not hesitate to state to Pio Pico that the Commander of the *Portsmouth* was assisting the revolt. To me it appears that the Bear Flag revolt, which started with such an onrush, cooled off when the participants realized their position and the possible consequences. And it required the fostering care of the warship, and even of its personnel, to bring the revolt to a successful termination by obtaining and reading the proclamation, which, written three days before, the revolt had hesitated to issue and stand behind. What messages and support they were receiving from the nearby Frémont we can only imagine. But his presence, and without doubt his encouragement must also have been important factors in the ultimate result. And he was holding Vallejo and his associates in his custody at Sutter's Fort. How could the Sonoma Bear Flag revolt fail to stand behind the proclamation, after it had been read to them by a lieutenant in the United States Navy? And with Frémont holding the Californian officers and leaders in custody?

In commenting upon the Californian sketch, now first reproduced, we note that the red stripe, which in the American version is attached longitudinally to the bottom of the flag, is vertical and next to the flagpole, where it naturally would be. This is clearly marked "Colorado" (red). Also the remainder of the flag is marked "fondo blanco" (white field). And also the awkward bear is facing the other way—away from instead of pointed toward the flagstaff. We do not care to venture any opinion as to which is correct, but the difference is noteworthy, particularly in the light of the divergence of the American opinions as to the details. It is noticeable, however, that it bears no letters: which confirms John Bidwell's statement as to that fact. Bancroft's account of the "Bear Flag" (Vol. V, p. 147 and footnotes) shows that there were just as many different versions as to the colors and the flag itself as there were accounts of it. The Californians were copying minutely, and certifying their copy to the British Vice Consul.

No. 11. Copied by Forbes and endorsed on the back in pencil: "Commodore Sloat's Proclamation." As this document has been frequently published, it will not be reprinted here.

No. 12. Letter addressed by Governor Pio Pico to Vice Consul Forbes, dated Santa Barbara, June 29, 1846.

No. 12

The undersigned, Constitutional Governor of the Department of the Californias, is sorry to inform Mr. Diego A. Forbes, Her Britannic Majesty's Vice Consul, that through the office of the Commander General of this Department and County Office of the Second District, he has been given the unpleasant news that a multitude of invaders from the United States of America have entered the northern part of this same Department, attacking four Mexican citizens, taking possession of the Sonoma garrison, and tearing the Mexican flag to pieces.

The undersigned has not had confirmed news that there has been an open declaration of war with that power; therefore, he resents strongly the audacious infamy perpetuated by the American foreigners, who, violating the sacred pacts and institutions of our Nation and ignoring all the gratitude which they should show for the hospitality they have received, in the most atrocious manner are trying to have this section of the Republic of Mexico present as sad a picture as the Department of Texas, practically consummating another great theft.

The undersigned has been informed that a great number of this kind of people

must have come under the protection of the first traitors who made the declaration of war in Sonoma. In the same manner the undersigned has been assured that an American war vessel, which is now anchored actually in Yerba Buena is secretly helping the invaders, this being the principal object of its being in that port.

The undersigned is considerably angered since he saw the translation of the proclamation, of which I respectfully enclose a copy, and in which the foreigner Guillermo [William] B. Ide, commander of that band of bandits, has addressed the inhabitants of this country describing in the most threatening and scandalous manner the abominable aspirations of the United States of America to its separation from the Union of Mexico.

The undersigned has the best intentions to repel the enemy and to keep intact liberty and independence, and is sure that all the Mexicans residing in this Department, in view of the sacred object, are filled with enthusiasm and are ready to sacrifice themselves and to have their blood flow rather than to surrender to a foreign domination. Therefore, he cannot do otherwise than to inform the Vice Consul of Her Britannic Majesty that even though his intention is to have a bloody encounter with them in order to punish the aggressors, the shores are unprotected and exposed to be occupied and blockaded by the American war vessels.

The undersigned is satisfied that Great Britain, being an ally of the Republic of Mexico and both nations having great consideration for each other, in view of such an outrage, will doubtless give her protection. This inspires the undersigned to solicit help in the name of the Mexican Departmental Government through that consulate, as there is on the coast a war corvette, in the hope that this will be enough to stop the progress of the ambitions of the Americans.

The undersigned feels that this step taken to save his country will be approved by the Supreme National Authority and, consequently, believes that this petition will be granted.

In addressing this note to Mr. Diego A. Forves, Her Britannic Majesty's Vice Consul, the undersigned requests that it will be given a quick solution and has the honor to offer him his high esteem and consideration.

God and Liberty, Santa Barbara, June 29, 1846, at 1 A. M.

PIO PICO.
[Rubric.]

Mr. Vice Consul of Her Britannic Majesty
Don Diego A. Forves

This, indeed, is the most interesting document of this entire group, one that was unknown to historians and has come to light only recently. It was accompanied by the copy of the Bear Flag Proclamation, certified to by Pio Pico's secretary, José Matias Moreno, herewith reprinted.

It was clear that the Californian chieftains had been filing their despatches and documents with Vice Consul Forbes in the hope that, by his passing them on to his government, his country would intervene in their behalf. But all doubts on that matter are set at rest with the reproduction here of the original despatch of Governor Pio Pico. It is most noteworthy that in this well-considered despatch Pio Pico states that the Commanding General has informed him of the Sonoma revolt, and the hauling down of the Mexican flag. It cleverly stands on the premise that no open declaration of war had been confirmed, although in fact Mexico had declared war on May 23, and from the curious wording of his phrase, and his superior facilities for information I conclude that Pio Pico probably knew it. He also recounts the assembling of a great number "under protection of the first traitors" and states that an American war vessel is secretly aiding them. Lieutenant Missroon's two visits had not passed unnoticed, and probably the part he played in having the proclamation issued publicly after three days' delay.

Pio Pico does not request, but actually states that, in view of the events carefully recorded with its Vice Consul, Great Britain will "doubtless give her protec-

tion." And he solicits help through the Consulate, as there was on the coast a British corvette, to stop the progress of the ambitions of the Americans. As a matter of fact, the British fleet was far more powerful than the American. Also he confidently believes that the step will be approved and his petition be granted. He could hardly have been so confident unless he had received assurances from someone at some time, that such a step, which might lead to war between the United States and Great Britain, would be taken. And he even requests quick action. This outstanding despatch, which throws such definite light on a hitherto unknown event in our national history, has come to light only within the past year. No previous historians writing on that period had any knowledge of it, nor, as far as I know, even suspected that such an occurrence had taken place. It therefore is of great interest as bringing to light an unknown historical event connected with the conquest, which might have been of the highest importance, and might have altered the history of the entire Coast.

I say might. For although we have not the definite answer, we can easily deduce what the reply to Pio Pico's letter was. We are not absolutely certain whether a later letter was sent direct to Seymour. It would seem improbable that another letter was sent; Pio Pico's letter with its certified enclosure was too definite to require amplification. As Rear Admiral Seymour was commander and supreme authority on this distant Coast, Pio Pico's letter was doubtless at once passed on to him to answer.

He did not answer promptly. July had come and almost passed before Seymour was ready to reply. Unfortunately we do not have his reply. Why he should have delayed, we do not know. British war vessels were coming and going. Seymour may have been expecting advices that would give definite instructions. At any rate his reply was delayed until July 23, and did not reach Pio Pico, still at Santa Barbara, until the 28th day of July.

No. 13. Letter written by Governor Pio Pico, dated Santa Barbara, July 29, 1849, and addressed to Don Diego Alex[andr]o Forbes, Vice Consul of Her Britannic Majesty at Monterey.

As this interesting original letter has also recently come to light for the first time and shows so clearly the chain of these events, its translation is published here. It is endorsed on the back by Forbes "Official from Pio Pico acknowledging receipt of R. Admiral Seymour's despatch of the 23 July '46. 29th July."

No. 13

The undersigned Governor of the Department of the Californias has had the honor to have received last night the official note which Señor George F. Seymour, Rear Admiral of the Naval forces of Her Britannic Majesty in the Pacific, has directed to him under date of July 23.

The undersigned acknowledges the receipt of this note and also that which Señor Forbes, Vice-Consul of Her Britannic Majesty in California, has directed to him under date of July 24.

The undersigned takes pleasure in renewing to Don Diego Alex[andr]o Forbes, Vice-Consul of Her Britannic Majesty in California, the sincere assurances of his most high and distinguished consideration.

God and Liberty! Angeles the 29th of July, 1846.

PIO PICO.

To Senor Diego Alex[andr]o Forbes
Vice-Consul of Her Britannic Majesty in California
Port of Monterey.



El infrascrito Gobernador del Departamento de California ha tenido el honor de haber recibido anoche la nota oficial que el Señor Jorge F. Seymour contra Almirante de las fuerzas navales de U.S. en el Pacifico con fecha 23 del presente Julio desde Monterey le ha dirigido.

El infrascrito al acusar recibo de esta nota, la hace igualmente a la que el Señor Forbes, T. Consul de U.S. en California con fecha 24 del mismo Julio, le dirigió. El infrascrito tiene el placer de renovar al Señor Jn Diego Alca. Forbes, T. Consul de U.S. en California, las sinceras protestas de su mas alta y distinguida consideracion.

Dias y Libertad. Angeles, a 29 de Julio 1846.

Pio Pico

Al Sr. Jn Diego Alca. Forbes
T. Consul de U.S. en California
Puerto de Monterey.

Official from Pro
Lico acknowledging
Receipt of R. Admiral
Seymour's despatch
of the 23 July 18
27th July

35-2

Endorsement on the back of the document shown
on the preceding page.

Governor Pio Pico's letter is addressed to Forbes at Monterey, where he doubtless was still in collaboration with Rear Admiral Seymour. The translation of this letter gives us very easily the inference as to what Rear Admiral Seymour's reply to Governor Pico was. The original of Seymour's answer is being sought in the Pio Pico documents. If not there, it will be found in the archives of the British Admiralty. But although we do not yet have it, the sequence of events tells us the story only too well. The letter is courteous and short, and evidently the answer of a very much cast-down man. In it he acknowledges the receipt of both their letters without comment, but with customary Castilian politeness.

Although Admiral Seymour's reply has not yet been found among the Pio Pico correspondence, Pio Pico's statement has been discovered (through the courtesy of Miss Eleanor Lawrence). It is brief and to the point, and is so important that it is incorporated here, both in the original Spanish and with a translation.

El Sr. Covarrubias a su vuelta me informo que habia tenida una entrevista a ese efectos con el Almirante ingles y este habia manifestado buena disposicion. Lo cierto es que el vino con el fin de ponerse en relaciones con el gobierno de Cal., y a su llegado se encontro con que la bandera de los Estados Unidos ya flameaba sobre el territorio. Por supuesto, ya no tuvo oportunidad de hacer nada. [Pio Pico, *Narracion historica*, p. 137, MS. Bancroft Library.]

Translation

Señor Covarrubias in his turn informed me that he had an interview to these effects with the British Admiral and that he had manifested a favorable attitude. The certainty is that he came with the end of placing himself "in relations" with the government of California, and on his arrival found himself confronted by the flag of the United States already flying over the territory. Therefore [in consequence thereof] he had no opportunity to do anything.

McNamara, the concessionaire of three thousand square leagues in the San Joaquin Valley, was delayed in the City of Mexico while getting his concession perfected. He came to Los Angeles to get it confirmed by the California Civil Government. He succeeded in doing this on the 12th of July, but Pico accommodatingly antedated the confirmation to make it read the 4th of July, or three days before the Americans landed. He was too late and Monterey was already taken. McNamara then proceeded, as usual in a British warship, to Monterey to endeavor to get his concession confirmed by the American authorities. And such confirmation was refused.

The statement of Pio Pico is pointed and clear — that the English admiral came for the purpose of "placing himself in relations" with the Government of California. What relations? Friendly relations? Certainly not, for they were already that. Also he bore the concessionaire to the greater part of the San Joaquin Valley! From the context and from the definiteness of Pio Pico's demand for intervention in his letter of June 29, the "relations" could hardly have meant anything except a British protectorate over California. Pio Pico's statement again is clear and definite. "The flag of the United States [was] already flying" (over Monterey where both fleets were), consequently "he had no opportunity to do anything." What was it that the British Admiral had no opportunity to do? Again, the writer believes that only one answer is presumable.

Evidently the dilatory Sloat had not acted a day too soon. And it was the knowledge that Frémont was backing a revolution and leading an armed force of settlers that precipitated Sloat into action at last. He thought Frémont must have had news that war had been declared. When he found he was mistaken, he turned over command to Stockton, and left for the East. Knowing the above facts as they now appear, can anyone refuse to believe that it was Frémont's praiseworthy carrying out of instructions that, at least, made certain the coming of California under the American flag?

As far as the British are concerned, it is quite evident that they moved only a little too late. They had not moved a fleet to distant California for nothing. Had it started a little sooner, and probably, had it not been held up by McNamara's delays at the City of Mexico there might have been a very different story to tell. But without Frémont's promptness in carrying out those never-revealed instructions he received from Gillespie, which now seem so apparent, the ultimate result could have been very different. As it was, California went safely under the American flag, as the Government at Washington had so wisely planned. Their officers did not fail them.

And what was the state of mind in Great Britain with regard to California? Had the strong Palmerston government remained in power, California might never have been American. Palmerston had a strong hand. He had his eye on California, in fact upon the whole Pacific Coast. But Melbourne's government had been upset, in which Palmerston was Foreign Minister, and Lord Aberdeen had come in as Foreign Minister under Peel. California was far away. A liberal government in England has never liked the idea of war; and particularly not with the United States. California was almost unknown; its tremendous resources were not then apparent. Consequently a resort to force against the United States, after that nation had taken a decisive step, was evidently not to be considered. Such, at least, is the writer's opinion.

Furthermore, as having a significant bearing upon this matter, it is probably just as well to set forth what Rear Admiral Seymour's views were as to California remaining a possession of the United States. I think this will throw some light on the actual state of mind at that time. And this is best done by introducing his original letter to Forbes, which is in the Templeton Crocker Collection of Sloat despatches. (It was printed in this *Quarterly*, Vol. III, page 88.)

H. M. Ship Collingwood,
Monterey, 22nd. July 1846.

Sir,

On quitting the Coast of Upper California, it may be useful to you that I should shortly state my views of your situation as Her Majesty's Vice Consul in that Province, under present circumstances.

The Squadron of the United States having taken forcible Possession of the Principal Ports, in consequence of hostilities having occurred on the Rio Grande between the Armies of the United States and Mexico, the value of the services of the Consuls of the different powers is enhanced, in order that they may assist in affording or obtaining Protection for their fellow subjects, whose interests may be compromised in the distracted State of Affairs which exists, or may be expected to prevail; I am, therefore, glad to have been informed by the Commodore Commanding the United States Squadron that there is no intention to disturb the Foreign Consuls in the exercise of their functions.

I observe in the Proclamation issued on the 7th. of July, that He acquaints the inhabitants that California will henceforward be a portion of the United States.

Whatever may be the expectations of that Officer, I apprehend He would not be warranted by the practice or Law of Nations, nor, I believe, by the Constitution of the United States, to declare that California has been annexed to that Republic; and that the Tenure under which the Forces of the United States at present hold this province should, therefore, be regarded as a provisional occupation pending future decisions, on the issue of the contest between the United States and Mexico; and in that light alone it should be regarded by you, until you receive Instructions from the Department under which you act, for your conduct.

I recommend to you the strictest Neutrality between contending Parties, and to conduct yourself with the prudence and circumspection which are so essential to make your Services as Her Majesty's Vice Consul beneficial in the present State of Upper California.

I have the honor to be, Sir, your obedient servant,

G. F. SEYMOUR

Rear Admiral and Commander in Chief.

To

James Alexr. Forbes, Esqr.

Her Majesty's Vice Consul in California.

No. 14. We now come to the interesting original letter of Vice Consul James A. Forbes, and with which were originally enclosed three letters or despatches, Nos. 1-3. This letter has been hitherto unknown and of course unpublished. We know that, as to the letters which accompanied it, Commodore Stockton's letter, which will be given herewith, was No. 1. Probably Castro's reply, which will also be given, was No. 2, and it is probable that his address to his countrymen on leaving the country, dated August 9, or the same date as No. 2, was the third enclosure; but of this we are not certain. The letter is endorsed on the back by Forbes: "Jose Castro with copies of correspondence Agosto 9, 1846." The translation follows:

No. 14

General Headquarters
of Upper California.

I have the honor to forward to your honor copies 1-3 of the correspondence held between the Commodore of the naval forces of United States, and the General Command in my charge, in order that your honor may be advised of the conduct which I have observed in the midst of the trying circumstances in which I find myself; and as might easily happen, in case of an unforeseen disaster of war which might tend to blemish my reputation, which I will preserve unsullied to the last act of my life, I beg of your honor to deem worthy to hold these documents as authentic proof of my behavior, and to place them, if it may be necessary, in the knowledge of the Nation that you so worthily represent.

With this motive, I have the honor to reaffirm to your honor the protestations of my distinguished appreciation and courteous consideration.

God and Liberty! The Camp on the Mesa, August 9, 1846.

JOSÉ CASTRO.

Señor Vice-Consul of
Her Britannic Majesty
Don Diego Forbes.

This hitherto unpublished letter of General Castro is clearly the communication of a broken-hearted man. He knew that he could expect no succor and he doubtless expected to be defeated by Stockton and Frémont. Realizing these facts, and fearful that obloquy might come upon him, he forwarded this letter to Vice Consul Forbes on the day upon which he fled to allow the victorious Stockton to enter Los Angeles.

No. 15. Commodore Stockton's letter. This was translated into Spanish, and enclosed by Castro as number one of the three letters. It is dated at San

Pedro, August 7, 1846, and is endorsed on the back by Forbes: "Copy of Commodore Stockton's letter to General Castro San Pedro Aug 7 1846." It was also signed by Castro to guarantee genuineness. As it is necessary for comment, the translation of the letter is printed here.

No. 15

United States Frigate "Congress"
Bay of San Pedro, August 7, 1846.
To the Commanding General of
Alta California.

General:—

I have the honor to acknowledge the receipt of your letter, and with you deplore the war which is now waging between Mexico and the United States.

Also, General, I do not desire to do more than that which my duty requires me to do. I do not desire to wage war against California or her people, but as she is a department of Mexico, I cannot do otherwise than to consider her a part of the Mexican Territory. That is my duty.

I cannot therefore delay my operations to negotiate under any other conditions than that California will declare her independence, under the protection of the Flag of the United States.

If therefore, you may condescend to hoist the American Flag in California, I will halt my forces and negotiate a treaty.

R. J. [F.] STOCKTON.
JOSÉ CASTRO.

[The latter signature is Castro's to the translated message to guarantee its genuineness.]

No other historian the world has ever known has, in my opinion, manifested such a magnificent amount of industry in the collection of such a wide range of authentic original documents, as Bancroft did in preparing the histories of California and of the West Coast. Apparently nothing escaped him. He ranged everywhere; he quotes unlimited despatches, letters, and documents, from American and Californian, Mexican and Spanish sources. As a result of this splendid endeavor and achievement, we have the remarkable collection of books, papers, journals, and documents, that comprises the Bancroft Library at Berkeley, so complete and rich in all that pertains to the history of this coast.

In my opinion it is most strange that with this magnificent array of historic data, the context in some portions of Bancroft's History should wander so far from the facts as disclosed in his footnotes, which are a wonderful array of his authentic documents that bear upon the case. But it is a fact that he frequently gives in his footnote the true statement of an event, and will reason opposite thereto in the page of his "History" printed above. It is stated that portions of his "History" were written by other inferior writers, while Bancroft devoted his time and energy to the collection of the accurate data so remarkable in its volume. If the above be true, the almost impossible contradictions that are found may be explained. It is frequently said that one should read Bancroft's footnotes and disregard his context.

As it is, Bancroft is made to appear as a partisan, without good judgment, and whose opinions did not always seem to be influenced by the documentary proof that he presented. As an instance of this, we find the curious belittling of, if not actual attack upon, General Frémont, and also to a lesser degree upon Admiral Stockton. It seems to the writer most unjust that this should be. For

whatever may be his faults, Bancroft is still the popular authority of the events on the Pacific Coast.

To Bancroft, Frémont is a filibuster, an adventurer, a man of no character, and unworthy of the slightest commendation whatever in the acquisition of California for the United States. Contemporary histories presented a far different view.

Stockton and Frémont were officers of the Navy and Army. They were under instructions from their government, either in writing or oral, and were engaged under most trying circumstances and at a most remote station, to carry out their instructions in a high-minded and loyal manner. Their acts were not of their own initiative or volition; they were carrying out a duty imparted to them. No matter how imparted, the instructions were at least of their own government, which alone was responsible for such acts, and not the officers who were carrying them out in the field. If the Government's despatches, which Gillespie carried verbally to Montgomery and Frémont, had ever been published, it is probable that Frémont never would have been criticized for his acts. If there be any obloquy in this matter, it should be heaped upon the head of the United States Government and not upon these officers who, under great difficulties, were carrying out instructions in the most efficient manner.

We have just given General Castro's letter to Vice Consul Forbes, and we now come to the correspondence which accompanied it. In no instance is the failure of Bancroft's context to conform to his footnotes more apparent than in this instance.

As to Commodore Stockton's note to Castro above quoted, what could be more courteous than this most polite of despatches? Stockton deplores the war between Mexico and the United States, says that he has no desire to do more than his duty, does not desire to make war against California and her people. But California is a department of Mexico. He can only do his duty. "If therefore you may condescend to hoist the American Flag, I will halt my forces and negotiate a treaty. Your obedient and very humble servant" &c.

What could be more polite, dignified, and absolutely courteous, than every word of this note? And yet Bancroft states in his context that Stockton "rejected the Mexican note by putting his terms in the form of an insulting threat." Where is any insult, and where is any threat? Here is Stockton's note, with the added signature of Castro, certifying to its accuracy.

President Polk's policy had been to endeavor, through Larkin, to induce the Californians to withdraw their allegiance from Mexico and join the United States. Larkin was on board the U. S. S. *Congress* with Stockton, and it is easy to see his hand in shaping this courteous note. But as the conflict had already begun in Mexico, the American commanders had strict orders to take California.

Sloat had violated instructions, had dillydallied, and finally received the sharpest kind of reprimand for his conduct. Stockton was simply living up to his instructions. Castro's offer was for each to retain the territory then possessed; Stockton was to halt, and to negotiate a treaty. This Stockton could not possibly

do under his orders. But to term his reply to General Castro as anything but the most polite and courteous note possible under the circumstances, is simply to betray the truth.

No. 16. General José Castro's answer to Commodore Stockton.

This document was evidently the second enclosure by General Castro in his letter to Vice Consul Forbes. As we do not find that it has been published in its completeness, it is worthy of reproduction here in translation:

No. 16

With inexpressible surprise I have read the answer given by you to my official note asking for explanations with regard to the conduct which you propose to pursue on the invasion which the Naval and Army forces of the United States, now under your command, perpetrated in this Department under my charge. The insidious contents of that note and the degrading propositions which it involves have placed me in the necessity of reproducing to you my last communication by reason of my duty to defend the honor of the National Army under my charge and of which I am the representative, and to make it evident to you, to what degree I want to sacrifice myself in order to preserve free of stain the post under my charge. Since war exists between the United States and Mexico, and you in compliance of your duties make war against this Department which is a part of her territory, I, as Chief of the Mexican forces which are at my command, am resolved to defend at any risk her integrity and to repel an aggression that like yours has no example in the civilized world, and more so if it is taken into consideration that there is not an expressed declaration of war between the two nations. You claim that you cannot check your operations to negotiate on any principle other than that California declares her independence under the protection of the United States flag. Never will I consent to commit the baseness of such a thing; but supposing that I should attempt it, I would not do it under the degrading conditions which you propose. And what would be her liberty with the protection that is offered to her from the mouth of the cannon? I do not understand it; furthermore, you may be sure that while I am alive I will take care of this part of the Republic of Mexico, where I saw the first light, that she may not seal in this manner her shame and her slavery. Furthermore, believing yourselves, undoubtedly, that there is not a drop of Mexican blood circulating in my veins, and that I ignore the circle of my responsibilities, you invite me to the most shameless of your propositions which is that of hoisting the American flag in the Department under my command. Never, never, never. Much could I say to you in this respect but I will only ask you: What would you do if the proposition was vice-versa? For the last time, Mr. Commodore, I repeat that I will not spare sacrifice to oppose your intentions, and if by some adversity the flag of the United States ever flies in California, it will not be by my acquiescence nor by that of the last of my countrymen, and only will happen due to force and by force. In the conception that I solemnly protest before the whole world against the methods that have been put into practice, or may be so put in the future, to segregate this Department from the Mexican Union to whose flag it desires to belong, making you responsible for all the ills and disgraces caused in a war as unjust as the one that has been declared against this peaceful Department, I have the honor of paying you my homage of personal regard.

God and Liberty, Campo de la Mesa, August 9, 1846.

JOSÉ CASTRO.

To the Commodore of the Naval Forces of the United States of America in the Pacific and anchored in the bay of San Pedro.

This is a copy. Campo de la Mesa, August 9, 1846.

CASTRO.

[Original signature]

No. 17. We now come to an historical document, viz. General Castro's proclamation to the Californians upon leaving. It is evidently the third document enclosed by Castro. It is dated "Camp on the Mesa Aug 9 1846"; it bears Castro's original signature, he evidently desiring to authenticate the document sent to Vice Consul Forbes; it is endorsed on the back by Forbes: "Castro's proclama-

tion to his Countrymen on leaving for Sonora." This proclamation is fearfully misquoted in Bancroft, being condensed into a short paragraph which in my estimation bears little resemblance to the original, which is therefore reproduced here. The translation follows:

No. 17

The citizen José Castro, Lieutenant Colonel of Cavalry in the Army of Mexico, Interim Comandante General of Alta California.
Fellow Citizens:

A month and a half ago we announced to you the war that a crowd of bandits, paid and directed by the agents of the United States of America, brought to our soil. And today, I have the knowledge that this same government, which has made protestations of friendship and which declared it had no part in what was done at Sonoma, has united with them, and perpetrated an iniquitous invasion.

But there is more. The American Government not content with the unjust usurpation which has consumed our Department, wishes to deprive us of our honor. It wishes us to betray our Mother Country, to separate ourselves from her breast, and to adopt the servitude of the American Flag, guaranteeing forever the bonds of our servitude.

Compatriots! Who of you does not feel his heart inflamed with anger to contemplate that not only does it wish to make us tributary slaves, but also has the impudence to prescribe to us that we shall voluntarily proclaim this slavery, as a favor which our gratuitous enemies allure us.

Fellow Citizens! I am very content with you; your grateful country will some day remunerate your loyalty, your valor, and your sacrifices; but she requires further constancy and your loyalty. The miserable situation in which this Department finds itself, the lack of resources to sustain War against a powerful Nation, enables it now to triumph over our feeble forces, but never, never over our hearts! Conserve always in them the same sentiments, the same ardor to sustain the sacred rights of our liberty and independence, and no matter what may be the fortunes of War, never belittle the glorious name of Good Mexicans!

Anew I exhort you compatriots, that pretending not to hear the false promises of our enemies, give to the entire world an example of loyalty and firmness, maintaining in your breasts, the unfailing love of liberty, and eternal hatred toward your invaders! Long live the Mexican Republic! Death to the Invaders!

Camp on the Mesa, August 9, 1846.

CASTRO.

We have nothing bearing upon the second and final taking of Los Angeles, although these papers did originally contain a printed proclamation of General Kearny to the inhabitants, in both English and Spanish. Unfortunately this was disposed of before the documents came to my notice and I have been unable to trace it.

We now pass to an event which occurred in the latter days of 1846, and which is mentioned only casually in Bancroft. These documents give us a far fuller light on this transaction than any history now contains.

On December 8, 1846, Francisco Sanchez, who lived on a ranch near San Mateo, exasperated by parties of American volunteers and regulars who came to carry off his cattle, gathered some neighbors around him, and captured Lieutenant Bartlett and five men, who were engaged in such a foray. It was supposed by Bancroft that this was practically a casual or accidental matter. But we have an unsigned document, evidently the copy of the official report of Vice Consul Forbes to his government, which throws a far different light upon the event. According to Forbes, and he doubtless knew, as he was married to a Californian wife, this was an organized revolt of all the Californians in the upper part of California, and was planned to co-operate with Flores south of

the Tehachapi, in order to make a complete revolt against the invading Americans. The number of Sanchez' adherents is stated to be from 200 to 400 men. They had a brisk skirmish with an armed force of 400 Americans, according to Forbes, including sailors, marines, and volunteers from San Jose. Although no one was killed, the Americans withdrew into Santa Clara and left Sanchez in possession of the field. And in considering this matter, it must be remembered that Francisco Sanchez was not only a private citizen but also Acting Comandante of the Second District. These documents are as follows:

No. 18. This document is possibly fragmentary. It is dated Santa Clara, Jan. 7, 1847, marked "Copy," also "Traduccion" (translation). It is endorsed on the back in Forbes' handwriting: "Extract of Orders from Captain Mervine to Captain Marston relative to capitulation." The translation is as follows:

No. 18

Santa Clara,
January 7, 1847.

Tonight I received from the Commander of the District the following Communication:

United States Frigate "Savannah."
Verba Buena January 5, 47.

At the moment you receive this you may conclude an armistice with the leaders of the insurgents and those who are under arms in Santa Clara, as far as you are able. They have armed themselves against the authority of the United States, disobeying the laws, and violating their oaths and words of honor, having pledged themselves to abstain from all offensive participation against the present government.

Their protestations that they are not thus occupied are foolish words, as long as our officers and men are held prisoners of war.

You may inform them that their compatriots in the south of the Department have been routed, and that I will give everybody here the same treaty. They shall lay down their arms, deliver to you immediately their cannon and munitions of war, and disperse to their respective homes. You may give to those who have not given their words [parole] the security that they will be protected in their persons, goods, and rights, to the full extent of law and justice. The government reserves the right, just the same, to take all arms when it deems it necessary for the public tranquillity, also to take horses, saddles, etc., when the service shall require it, giving receipts for the full value of goods thus taken.

Furthermore, let them know that all persons whose cattle, horses, and saddles and other goods, have been appropriated for the use of the Government of the United States, may present themselves to the authorities with the necessary proofs, and they will be paid in due time.

You may make it clear to them that whatever acts of injury have been committed before my arrival here, that they may make them known by stating them to the Commander in Chief, by whom without doubt they will be satisfactorily compensated; and whatever violence or injustice they may have suffered since my arrival will be investigated as soon as they make such offenses manifest.

The foregoing may have been the complete copy of this despatch, omitting the signatures and so forth, as no further terms are mentioned by any historian.

No. 19. Now we pass to a document marked "Duplicate" in Vice Consul Forbes' handwriting. It is in English, is endorsed on the back, "Copy Jas. Alex. Forbes relative to fight at Santa Clara," and is dated "British Vice Consulate, Santa Clara, June 15, 1847." I do not believe that this important despatch has ever been made public.

No. 19

Duplicate
No. 1British Vice C. Sta Clara
15th Jany 1847.

Sir

I have the honor to inform you that the inhabitants of the Northern part of this Dept had become so much exasperated at the harsh and arbitrary measures of the American Volunteers in depriving them of their property, that they resolved no longer to suffer, and gathering a small force, surprised and took prisoners a Lieut. Bartlett and six men, who had made a foray into one of the farms in the vicinity of St. Francisco, for the purpose of procuring cattle for the use of the U. S. Forces at that place.

The Californian party marched rapidly to the interior with their prisoners; and were soon joined by a number of their countrymen; who with such arms as they had been able to secrete from the search of the Americans resolved to resist the U. S. Forces.

These forces consisted of a detachment of sixty men from the vessels of war, who had been quartered in the town of St. Joseph; seventy-five volunteers under the command of a German who [is] named Weber, (celebrated for his villainous acts against his benefactors the Californians who raised him from extreme indigence to possessions [and] property); between fifty and sixty immigrants residing at this place; and marines and seamen from Monterey and St. Francisco to make the number of about four hundred men.

The Californians were promised the aid of their countrymen from the vicinity of Monterey; but these were prevented from [joining] with those of the north by a party of Americans who had left Monterey before those men of the country could procure a sufficiency of arms and ammunition, to enable them to make any stand. The northern party however resolved to fight the American forces. The Californians after about fourteen days of rapid marching about by night and day, had received an accession of arms & men, and on the first of this month encamped in the plain of Sta. Clara; where they resolved to await the attack of their adversaries who were marching towards this place. On the 2nd of Jany the two hostile bodies met. The Californians in a disorderly but rapid movement, rushed upon the Americans, who had one field [piece] a six pounder; the fire of which only killed a few horses of the Californians, who however killed and wounded a few of the Americans. The Americans retired slowly into this place, and the natives of the country encamped about a mile from the scene of the skirmish. On the same afternoon they received intelligence that their countrymen could not possibly cooperate with them for want of horses; which had been taken by the Monterey forces.

In the course of the evening a flag of truce was sent in by the Californians desiring an interview with the Commander of the American party; who immediately called upon me to inform me that the Californians had sent him a flag of truce, and had requested an interview with him; desiring also, that I should be present at that interview. The officer begged me to accompany him to the conference with the Californian leader; and I being convinced of the utter impossibility of their ultimate success; their want of everything necessary even for a brief resistance being quite palpable; and also being aware of the ruthless disposition of the volunteers who had no other aim than to destroy the property and lives of the unfortunate Californians, and of all those who favoured their cause; determined me to be present at that conference; and without compromising my neutrality to aid in the cause of humanity, in putting an end to the evils to which these people as well as myself had been exposed; and to bring matters into a train which would lead to their safety and tranquillity. I accordingly accompanied the Commander of the American forces (Captain Marston of the Marine Corps) attended by Doctor Duval of Savannah; and another volunteer officer, to the vicinity of the camp of the Californians; one mile distant from this place where we were met by the Californian leader D. Francisco Sanchez and two of his adherents.

After stating the cause of their having taken up arms, which was wholly caused by the injustice with which they had been treated by the U. S. Volunteers; Sanchez desired to be informed whether he; and his countrymen might expect an impartial hearing of their grievances, by the Commander of the American Naval forces; in order that their property might not be taken with[out] any order or without any remuneration.

The Captain (Marston) assured him that there should be an armistice pending the decision of Captains Mervine and Hull. This armistice was kept more religiously

by the Californians than by the Americans; and on the 6th of Jany, their messenger arrived with the intelligence that if the Californians would lay down their arms and retire to their respective homes, they should be heard and their claims redressed, their property paid for; and no further aggression should be committed on their property.

I had forgotten to mention that the Lieut Bartlett was at my request, delivered up to me during the armistice, and was afterward liberated by the Californians, who acceded to the proposed terms of the American Commander, delivered up a part of their arms, and retired to their respective homes.

Since that day we have seen the commencement of different treatment of these people; and I trust that it will have produced a beneficial feeling in their favor.

I have considered it my duty to inform you of this affair and I also have the honor to accompany to you copies of the communications that passed between Captain Mervine and myself, in relation to the same; and beg to add that I have only been actuated by an impulse of sympathy toward the Californians in averting from them a very great evil.

I have the honor to be etc.

This is, in my opinion, Forbes' report to the British Government of the entire Sanchez transaction. It is unsigned, as such a duplicate, simply for his files, naturally would be. But it is endorsed by him, as being his document. From it I think it is clear that an active revolution of the entire Coast had been intended, Sanchez co-operating with Flores; but that the Monterey adherents were prevented from joining Sanchez because an American force had captured all their horses. Upon receipt of this news, Sanchez sent in a white flag for an armistice with a request that the British Vice Consul accompany the American officers, which request was evidently heartily endorsed by Captain Marston in command. There would seem to have been much fault on the part of the Americans for their conduct in levying upon the herds and provisions of the Californians without an order, a receipt, or a promise to pay. And this in face of the liberal and just terms offered to all native Californians by Commodore Sloat in his proclamation. Furthermore this affair was much more important than Bancroft is led to believe. He states that the American force was only 101 men (Vol. V, p. 380) while Forbes carefully enumerates 400 men. Other sources corroborate Forbes and place the Californians at about the same number. As Forbes was with the American forces in Santa Clara, he certainly should be correct.

Those in command were evidently convinced of the justice of the protest of Sanchez, however forcibly made, and only too ready to acquiesce in all his demands, and to close the matter with assurances that no such injustices would occur in the future. The one thing that these documents show us is that this was intended to be a complete revolt of all California, which was frustrated through the cutting off of the Monterey adherents. Bancroft is very sketchy about the entire matter, does not have this view, and seems hazy as to when Lieutenant Bartlett was delivered up to the British Vice Consul, who distinctly says that Bartlett was delivered up to him, at his request, during the armistice.

I think it is well to read the summing up of this Sanchez movement in the words of Walter Colton, the Alcalde of Monterey, in his charming book *Three Years in California*. It can be at once seen that Colton agrees closely with our Forbes document. I quote his beautiful words:

The outbreak at the North has passed away, and the last wave of commotion perished with it. This result is to be ascribed to the energy of Captain Mervine, to the moderation and firmness of Captain Marston and associates, and to the good

conduct of the forces under their command. Nor should it be forgotten that the Californians evinced on this occasion a disposition well constituted to bring about an amicable treaty. They took up arms, not to make war on the American flag, but in vindication of their rights as citizens of California, and in defense of their property. They had been promised protection—they had been assured that they should not be molested if they remained quietly at their homes—and these pledges had been glaringly violated. Their horses and cattle had been taken from them, under cover of public exigency, and no receipts given to secure their indemnification, at last they determined to have their rights respected or to die like men. Still it was necessary to meet them in arms and in sufficient force to inspire respect. And they were, however, well mounted and might, had they so listed, have prolonged the struggle, but this was not their object and they sent in a flag of truce. The conditions of the treaty were that they should lay down their arms, release their prisoners, and that their property should be restored, or such vouchers given as should enable them ultimately to recover its value. This was a reasonable settlement on their part, and the American officers had the good sense to appreciate its force. We must be just before we attempt to be brave. Laurels won through wrong are a dishonor.

This concludes the documents.

The personal letters are new and hitherto unknown. The official dispatches are probably all on record; although some, those of the Naval commanders, and what is doubtless Forbes' letter to his government, may be difficult of access.

This careful and continued filing of practically all official documents with the British Vice Consul, has been a fact apparently unknown to historians. It may be that contemporaries were aware of this carefully built up evidence in the case on the part of the Californians. If they were aware of it, I can find no mention of it either in Bancroft, the scholarly Hittell, or in any of the others that have come under my notice.

Furthermore, it has never been known that Governor Pio Pico demanded English assistance and desired to place his province under the protectorate of Great Britain. What occurred to delay Sir George Seymour's answer so long, we can only surmise. It may be that he was awaiting despatches from home as to the policy he should pursue. He would at least seem to have been weighing the matter well before replying. He might even have been considering an acquiescence to Governor Pio Pico's request.

There has been a general pooh-poohing by some latter day historians, headed by Bancroft, of the theory that Great Britain desired, or even had the intention of acquiring California. This view is directly opposite to that of the historians who wrote their histories nearer the time of the Conquest. It is a safe business axiom that the man on the spot knows the situation best; and those earlier ones were on the spot. These documents would seem to the writer fully to prove the earlier view. Great Britain did not move large battle fleets in those days for nothing. Sloat outsmarted Seymour in his departure from Mazatlan, as Bancroft's footnotes conclusively show (Vol. V, p. 211). The British fleet arrived too late. They were evidently willing on request to place a protectorate over California. But Frémont's activities had sealed the day; and together with Mervine's caustic utterances at the wardroom conference (again see Bancroft's footnotes Vol. V, p. 229) had finally induced Sloat to act. The American Flag was flying when Seymour arrived; the opportunity was lost. There was nothing

to be done. And after deliberating over Pio Pico's application for three weeks, Admiral Seymour evidently sent a negative reply.

It is apparent to me that the Sanchez revolt has never been understood by the historians. It has been considered as a personal outbreak due to the seizure of Sanchez' horses and cattle by American regulars and "volunteers." No one ever realized, until the statements of Vice-Consul Forbes have come to the light of day, that Sanchez revolt was the northern end of a preconcerted organized outbreak, that was to embrace all the native population from San Diego to the north. Flores carried out his southern end of the revolt to the full extent of his ability; but the Monterey people, in the center of the region, seemed to have failed to move, from reasons that will probably never be known, to join in when the time came. Possibly they realized its futility. Sanchez and his neighbors did their best; but the movement was not complete enough to have any chance of success. And upon realizing that full cooperation was not being given him and that the southern Californians had been defeated, Sanchez wisely sought the best terms possible and laid down his arms.

These documents are indubitably authentic; and if their appearance at this time gives us side lights that had not been previously realized, we can only be pleased that even at this late day they have come to light, to give an added ray upon that brilliant movement which resulted in the acquisition and addition of its most beautiful star to the American Flag.

ERNEST A. WILTSEE.

THE STRUGGLE FOR CIVIL GOVERNMENT IN CALIFORNIA, 1846-1850

By JOSEPH ELLISON

(CONTINUED)

CHAPTER III A CONFLICT OF THEORIES

Announcement of the Treaty of Peace. The Treaty of Guadalupe Hidalgo, by the terms of which Upper California was ceded to the United States, was ratified at Washington on March 10, and at Querétaro on May 30, 1848. The official news of the ratification of the treaty reached Mason on August 6,¹ and on the following day he issued a proclamation announcing this important event.²

With the termination of the war and the cession of the territory to the United States, California became formally a part of the Union, and it was to be expected that the period of military rule would end. But since Mason had received no instructions with regard to this matter, he decided to continue the existing system. In his proclamation of August 7, therefore, he told the people that within a very short time Congress would organize a territorial government for California, conferring upon her inhabitants the constitutional rights of citizens of the United States; in the meantime, however, the "existing laws of the country will necessarily continue in force till others are made to supply their place," and the "present civil officers of the country will continue in the exercise of their functions as heretofore, and when vacancies exist or may occur, they will be filled by regular elections."³ The only modification was the substitution of the United States revenue laws of 1846 in place of the military contributions, and the replacement of the military officers with civil collectors. This modification the governor thought was necessary in order to prevent an influx of foreign goods, duty free, which would, of course, be detrimental to the interests of the American merchants, and deprive the United States of revenue; for with the termination of the war the military contributions had to be discontinued.⁴

Mason realized, however, that his position was rather anomalous. In a letter to Washington he explained the situation and asked for advice. He said that he could not see what authority a military officer had to exercise control over civil affairs in a territory of the United States. Yet to throw the civil administration upon the people themselves, he feared, would result in confusion and probably in anarchy. And yet, should the people refuse to obey the authorities or refuse to pay the duties, he would not be in a position to enforce obedience.⁵

¹ H. Ex. Doc. 17, 31 Cong., 1 Sess., 597 (573).

² *Ibid.*, 590-91.

³ *Ibid.*

⁴ H. Ex. Doc. 17, 31 Cong., 1 Sess., 592, 598 (573). He realized that he had no authority to collect customs, should the merchants refuse to pay them; but since the law forbade landing goods until duties were paid, he assumed the responsibility of collecting them.

⁵ *Ibid.*, 597-98.

Demands of the Settlers. The news of the signing of the treaty of peace was gladly received by the people of California, who hoped that a civil government would soon be established. The question of territorial government became the vital topic of the day.⁶ There were many, however, who very early began to realize that it would probably take many months before Congress would be able to agree on a plan acceptable to both the north and the south. They believed that Congress was interested more in the sectional question than in the pressing needs of California. Hence, they began to advocate the organization of a temporary civil government. They claimed that the commanders of the United States military forces had ample power to take such a step; and in case neither Mason nor Jones should feel inclined to assume the responsibility, declared the *Californian*, then the people themselves, as a measure of self-defense, should immediately take the necessary steps in this direction, following the example of Oregon, and should organize a provisional government.⁷

These murmurs became louder when, after long waiting, the anticipated news of Congressional action pertaining to the territorial government did not arrive. It was much more irksome to live under a military administration, governed by a system of half Mexican and half American laws, after the territory had become, by virtue of the treaty, a portion of the United States, than it was while the war was still pending. Moreover, the great influx of a heterogeneous population after the discovery of gold aggravated the situation, and the provision of an adequate system of laws became more urgent. During the excitement and rush to the mines, attention was for a while diverted from political questions; but with the return of the miners during the rainy season, there was again ample leisure to discuss politics, and the agitation was resumed.⁸

Not a little discontent was caused by the enforcement of the United States revenue laws. The heavy imports created a great demand for coin to meet the custom house charges, so that the value of gold dust was much depreciated. Mason was finally compelled to order the collectors to accept gold dust as collateral security for duties at the rate of ten dollars per ounce.⁹ The new revenue system was also denounced as "taxation without representation."

Several thefts and murders¹⁰ committed during the winter of 1848 accentuated the complaint of "outraged law," and the demand for measures for the speedy organization of a civil government became more insistent. Mason admitted that California was greatly in need of a "regular, organized government"; but without any instructions from Washington, he declared, no such government could be established. He was confident that in the course of a very

⁶ *Californian*, Oct. 21, 1848.

⁷ *Californian*, Oct. 21, 1848.

⁸ Memorial of the California Delegation to Congress, March 18, 1850, 1. The memorial is printed in H. Misc. Doc. 44, 31 Cong., 1 Sess. (581); Browne, *Debates in the Constitutional Convention of California*, App. xiv-xxii.

⁹ *Ibid.*

¹⁰ Mason to L. W. Hastings, Oct. 24, 1848. H. Ex. Doc. 17, 31 Cong., 1 Sess., 677 (573). Mason thought that conditions in the California mining regions were better than in the mineral regions in the East.

Proclamation

To the People of California

The Delegates of the People assembled in convention have framed a Constitution which is now presented for your ratification. The time and manner of voting on this Constitution and of holding the first General election, are clearly set forth in the Schedule; ~~and~~ the whole subject is therefore left for your unbiased and deliberate consideration.

The Prefect (or person exercising the functions of that Office) of each district will designate the places for opening the polls, and give due notice of the election, in accordance with the provision of the Constitution & Schedule.

The people are now called upon to form a government for themselves, and to designate such officers as they desire to make & execute the laws. That their choice may be wisely made, and that the Government so organized may secure the firmament welfare & happiness of the people of the new State, is the sincere & earnest wish of the present Executive, who, if the Constitution be ratified, will, with pleasure, surrender his powers to whomsoever the people may designate as his successor.

Given at Monterey, California, this
12th day of October A.D. 1849

(signed) B. Riley
Brigadier General U.S.A.
& Governor of California

Official
H. W. Hall
Scrip't of City of the

Proclamation of Brigadier General Bennett Riley, Governor of California, calling upon the people to vote upon the proposed Constitution. Reproduced through the courtesy of Mr. Hugh Wiley, from the original in his possession.

short time, official intelligence of Congressional action would come.¹¹ In his reports to the War Department, he again and again emphasized the urgent need of a territorial government for California.¹² "There is no security here for life or property," he said, "and, unless a civil government is specially organized, anarchy and confusion will arise, and murder, robbery, and all sorts of crime will be committed with impunity in the heterogeneous and mixed community that now fills California."¹³

Slavery and Territorial Government. The government at Washington was not entirely indifferent to the needs and demands of California, but there was one great impediment in the way of providing civil governments for California as well as for other territories; namely, the slavery question. Upon this great rock many bills providing civil government for different territories were wrecked.

To better understand the situation in Congress during the period under discussion it may be worth while to give a brief summary of the slavery question prior to this period. In the colonies and in the original thirteen states slavery rested primarily on custom, and some specific law was necessary to abolish it where it already existed.¹⁴ The Constitution of the United States recognized slavery in three provisions: (1) the provision that the negro slave population should be counted as three-fifths the white population as a basis for representation in the House of Representatives and for direct taxation; (2) the provision to abolish the slave trade before 1808; and (3) the clause for the extradition of fugitives from labor. As to the national territory it could be free or slave soil according to the custom of the locality.¹⁵ By the Ordinance of 1787, slavery was forbidden in the territories then belonging to the United States, north of the Ohio River. But in the territory southwest of the Ohio River the prohibition was not applied, because Congress promised not to do so when the Southern states made their land cessions. Hence Alabama and Mississippi entered as slave states.

In the territory of the Louisiana purchase slavery was already in existence when the country was purchased. Congress permitted its continuance in this territory and in 1812 Louisiana was admitted as a slave state. Therefore, when, on the application of Missouri for statehood it was proposed to abolish slavery therein, the South protested, claiming that it was unjust to prohibit the institution after it had been allowed to develop for a number of years. The settlement known as the Missouri Compromise provided for the prohibition of slavery in the Louisiana purchase north of the latitude of 36° 30' except in the territory

¹¹ *Ibid.*

¹² Practically all the officers pointed out such a need.

¹³ Mason to Brigadier General R. Jones, November 24, 1848. H. Ex. Doc. 17, 31 Cong., 1 Sess., 648-49 (573). In his letter to General Jesup dated December 25, 1848, Folsom wrote that the affairs in California were getting worse; murder and robberies were a daily occurrence. Within six weeks there were over twenty murder cases in the territory. Newspaper clipping in Lieber Scrap Book, 59 (Bancroft Library). "I may say with truth, that both persons and property are insecure in Upper California at this time," wrote the commander-in-chief of the United States Naval Forces on the Pacific Ocean, Commodore Thos. Ap C. Jones, to Secretary Mason, December 22, 1848. *Ibid.* 67.

¹⁴ Johnston, *American Political History*, I, 1.

¹⁵ Johnston, *American Political History*, I, 34.

included in the proposed state of Missouri. As to the territory south of that line it was commonly understood that the free states had tacitly pledged themselves not to make use of the Congressional power in order to abolish slavery therein.¹⁶

With the acquisition of the Mexican territories, Congress was called upon to face the vexatious question whether they should be free or open to slavery. In his special message of July 6, 1848, President Folk informed Congress that after the cession of California and New Mexico to the United States the "power of the Executive, to establish or to continue temporary civil government over these territories, which existed under the laws of nations whilst they were regarded as conquered provinces in our military occupation, has ceased." He therefore urged Congress to establish territorial government immediately. He pleaded for a spirit of concession, conciliation, and compromise in the organization of these governments.¹⁷

In both houses the sections of the message relating to the question of territorial government for California and New Mexico were referred to the Committees on Territories. It was, however, felt everywhere that in spite of the President's plea for a spirit of conciliation, the question of slavery would impede action. For the sectional conflict had now reached an advanced stage. The North claimed that the territory was already free by the decree of Guerrero in 1829, and by the constitution of the Mexican republic, and that "by the laws of nations, the laws of all conquered countries remain until changed by the conqueror."¹⁸ But the South was equally determined that she should not be deprived of the benefits of this common acquisition which by her blood and money she helped to gain.

To appreciate the argument of the South it is necessary to understand her position during this period. For many years the sectional equilibrium in the Senate had been maintained by admitting new states in pairs — one from the North and one from the South. But after the admission of Florida in 1845, the Southern statesmen began to realize that the Missouri Compromise was disadvantageous to the interests of their section. For while the territory south of the line 36° 30' had been already carved into states, the vast region north of the line still contained territory for a number of states, which would of course be free. The Southern statesmen saw this large territory being filled up rapidly with an energetic population from the North, from Europe, and even from their own section. The emigration of the white population from the South to the West, above the line of 36° 30' meant a loss of strength to the interest of the slave states, and a gain to the cause of the free states. The result would be that in a short time the South would become a minority not only in the House of Representatives and in the electoral college, but also in the Senate, her last stronghold; until finally the abolitionist North would control a sufficient number

¹⁶ See Burgess, *The Middle Period*, 93.

¹⁷ Richardson, *Messages*, IV, 589-90.

¹⁸ Statement of Senator Phelps of Vermont quoted by Rhodes, *History of the United States*, I, 94.

of votes in all branches of the government to amend the Constitution, abolishing slavery even in the states. The South was therefore appalled by the Northern "aggression" in demanding that the whole Mexican cession should be free territory.

The Southern statesmen now began to advance the doctrine that the slave states had an equal right to all territories. This claim was based on the ground that the territories belonged to all the states united and not to the government of the United States; that Congress was merely the agent of the joint owners, the states, and its power was merely to dispose of and make all needful rules and regulations respecting the public domain and other government property. But Congress was not empowered to prevent any citizen from entering the territories with whatever was recognized as property within the state from which he came.

In reply to the argument of the North that California and New Mexico were already free by the laws of the Mexican republic, and that according to international law the "laws of all conquered countries remain until changed by the conqueror," the South advanced the doctrine of the "transmigratory function of the Constitution." Calhoun denied that the laws of Mexico can have the effect attributed to them of keeping slavery out of California and New Mexico, saying that

As soon as the treaty between the two countries is ratified, the sovereignty and authority of Mexico in the territory acquired by it become extinct, and that of the United States is substituted in its place, carrying with it the constitution, with its overriding control over all the laws and institutions of Mexico inconsistent with it.¹⁹

Senator Berrien, of Georgia, modified this law by the doctrine that only the private law in a ceded territory remains in force until changed by positive enactment of the power to whom the cession had been made; but the public law of the receiving nation is extended to the acquired country immediately upon the occupation of the cession.²⁰

California was the scapegoat of this sectional conflict. Her appeals for an organized form of government to protect her from anarchy were drowned in the noise and clash of the slavery struggle in Congress.

The Clayton Compromise. The friends of California made many efforts to legislate in her behalf. On July 12, 1848, a motion was adopted in the Senate to refer the territorial question²¹ to a select committee of eight members, to be chosen by ballot — four from the North and four from the South — with both parties equally represented. The motion was adopted by a large majority of thirty-one ayes against fourteen nays.²² The committee was chosen on the following day with Clayton, of Delaware, as chairman.²³

¹⁹ Quoted by Benton, *Thirty Years' View*, II, 713; Rhodes, *History of the United States*, I, 94.

²⁰ Excellent discussions of the slavery conflict are to be found in Johnston, *American Political History*, II; Burgess, *The Middle Period*, Chaps. III, IV, XVII. The best discussion of the territorial question in the Thirtieth Congress is given in McCormac, *Polk*, Chap. XXII.

²¹ The question of territorial government for Oregon had been before Congress since 1846. During the second session of the Twenty-ninth Congress the House passed a bill which excluded slavery from the territory, but it was tabled in the Senate.

²² *Cong. Globe*, 30 Cong., 1 Sess., 928.

²³ Hence the Clayton Compromise Committee.

Proclamations.

I conform with the customs of other states and territories, and in order that the people of California may make general and public acknowledgement of their gratitude to the Supreme Ruler of the Universe for his kind and fostering care during the past year, and for the bounties blessings which we now enjoy, it is recommended that Thursday, the 29th day of November next, be set apart as a day of Thanksgiving and Prayer.

Given at Monterey, California, the 24th day of October, A.D. 1849.

(Signed) B. Riley

Post Brig. Gen. U.S.A. and
Governor of California

By the Governor

H. W. Hallett

Accept & Duty of State

The first Thanksgiving Day proclamation in California. From the original in the collection of Mr. Hugh Wiley.

The committee worked hard and held long conferences, each side insisting that its rights must be upheld. It was realized that any settlement must be based on a compromise, but the difficulty was to find the compromise. The compromise line of 36° 30' was voted down. Finally the committee succeeded in mustering a majority for a single bill providing for the organization of territorial governments for California, Oregon, and New Mexico. The existing provisional laws of Oregon, which excluded slavery, were recognized, subject, however, to the action of the territorial legislature that should be elected. In

the cases of California and New Mexico, power to legislate on the question of slavery was withheld from the territorial legislatures to be elected and the question, should it ever arise, was left to the courts to decide, with the right of appeal to the Supreme Court of the United States.²⁴

The chairman of the committee pleaded for the adoption of the bill, pointing out that it was a real compromise, neither affirming nor denying the powers of Congress to concern itself with the question of slavery; the bill simply left the entire question to be decided by the judiciary.²⁵ The discussion was heated. The anti-slavery men saw in the compromise a cunning device of the South to gain her points in a roundabout way, for, as the Supreme Court was then constituted, she had little doubt that the decision would be in her favor. Hale, of New Hampshire, declared that he had no confidence in the Supreme Court "as now constituted."²⁶ Miller, from New Jersey, a Whig, objected to the "triple alliance." In Oregon, he pointed out, the people were from the United States, but he knew nothing about the character of the population in California and New Mexico.²⁷ Many on the Southern side contended that it was a complete surrender of the rights of the South.²⁸ Finally, after a continuous session of twenty-one hours, the bill passed the Senate by a vote of thirty-three to twenty-two.²⁹ The opposition came from the free states. It was sent to the House on July 28, where, on the motion of Stephens, of Georgia, it was laid on the table without even receiving a reading.³⁰ The result was that Congress adjourned without making any provision for the Mexican territories,³¹ and each one of the two major parties blamed the other for the failure to take action.³²

Status of California. While matters were in this condition, Senator Benton felt it was his duty to act as counselor to the people of the territories.³³ On August 27, 1848, he addressed a letter to "the people of California," telling them that the "temporary civil and military government" established over them as a right of war

²⁴ The Clayton compromise bill is given in *Cong. Globe*, 30 Cong., 1 Sess., 1002-5. It consisted of thirty-seven sections, seven of them relating to a territorial government for California. Meigs says the bill was of Southern origin based on Calhoun's idea of non-interference. Meigs, *Calhoun*, II, 413.

²⁵ *Cong. Globe*, 30 Cong., 1 Sess., 987-88.

²⁶ *Ibid.*, 988.

²⁷ *Cong. Globe*, 30 Cong., 1 Sess., 992 *et seq.*

²⁸ *Ibid.*, 1001.

²⁹ *Ibid.*, 1002. Horace Greeley, *The American Conflict: Its Causes, Incidents, and Results*, I, 191. The Senators slept on sofas in the lobby and in other places, to be aroused to cast their votes against motions to adjourn. At one time there was only one Senator in his seat. Meigs, *Calhoun*, II, 413-14.

³⁰ *Cong. Globe*, 30 Cong., 1 Sess., 1007. He said the bill settled nothing, it merely postponed the settlement of the issue. Foote said Stephens feared the judicial decision would be in favor of the North. Foote, *War of the Rebellion*, 80.

³¹ A bill for a territorial government for Oregon passed both houses after the defeat of the Clayton Compromise bill.

³² Polk accused the opponents of the bill, particularly the Whig leaders, of a lack of patriotism. Polk, *Diary*, IV, 33-34; McCormac, *Polk*, 638.

³³ In his note accompanying the letter Benton stated that persons from California and New Mexico had written to him for his opinion in the event that Congress should adjourn without having provided the necessary territorial governments. The letter to the people of California was therefore to serve as a reply also to the people of New Mexico. *Niles' Register*, LXXIV, 244.

was at an end, and that the "edicts promulgated by your temporary Governor Kearny and Mason (each an ignoramus) so far as these edicts went to change the laws of the land are null and void." He urged the people to hold a convention and adopt a provisional government to function until Congress could make provision for them.³⁴

President Polk was much disturbed by Benton's officious letter. He was fearful lest the Californians, believing that Benton spoke in an official capacity, might be led to adopt revolutionary measures.³⁵ The matter was discussed in several cabinet meetings. The President proposed that the Secretary of State address a letter to the people of California, advising them to obey the government *de facto* until Congress should act, and assuring them that the President would at the next session of Congress urge the establishment of a territorial government. The members of the cabinet differed with regard to the situation. Secretary Toucey thought that the sovereignty of the territory rested in the people and therefore in the absence of Congressional action the people had a right to govern themselves. Walker and Mason believed that sovereignty rested in the people of the United States and not in the people of the territories, and that the people of the territories, therefore, had no right to set up their own government. Secretaries Marcy and Johnson held that the existing government *de facto* was the only legal government that could exist until Congress could provide another one. Buchanan took a middle ground, holding that the people might form an independent government not inconsistent with the Constitution of the United States, but that it would not be expedient for them to do so.³⁶

The long letter drawn up by Secretary Buchanan gave to the people of California a full view of the theory held by the administration with regard to the legal status of California. After congratulating them upon their glorious prospects, and assuring them that Congress and the President "feel a deep interest in the welfare of California and will at an early date in the next session, provide for them a territorial government suited to their wants," he went on to explain the status of their existing government. The position he therein maintained was that although, after the ratification of the treaty of peace, the government established in the territories under the laws of war ceased to derive its authority from this source of power, nevertheless, the "termination of the war left an existing Government, a Government *de facto*, in full operation; and this will continue with the presumed consent of the people, until Congress shall provide for them a territorial Government." The consent of the people to its continuation was inferred from the fact that "no civilized community could

³⁴ This somewhat officious letter was printed in *Niles' Register*, LXXIV, 244-45. In California it was printed in the San Francisco *Alta California*, Jan. 11, 1849. A similar letter had been addressed by Benton to the people of Oregon. Benton's action was probably due to personal reasons, for at this time he was not on friendly terms with the President. The chief causes that led to this breach between them were Frémont's court-martial, and some matters of patronage. Meigs, *Benton*, 381.

³⁵ Polk believed that Benton's aim in writing this "arrogant" letter, and sending it by his son-in-law, Colonel Frémont, was to induce the people of California to form an independent government with Frémont as governor. Polk, *Diary*, IV, 136-37; McCormac, *Polk*, 644-45.

³⁶ Polk, *Diary*, IV, 141-42.

possibly desire to abrogate an existing Government, when the alternate presented would be to place themselves in a state of anarchy." This government, he held, could exercise no power inconsistent with the Constitution of the United States, which is the supreme law of the land. Finally he again urged the people of California to live peaceably and quietly under the existing government, although it was not the kind of government "they could desire and had a right to expect." He warned them against any attempt to organize a government for themselves, an attempt which would positively cause dissension and retard the progress of the territory.³⁷

Thus, while conciliatory in its tone the letter of the President asserted that the existing government must be sustained until changed by Congress. In his orders to Mason, Secretary Marcy instructed the commander in chief to sustain the existing *de facto* government, and "to quiet any uneasiness which may arise in the minds of the people, on account of their present anomalous state."³⁸

Popular Action. Wearied of unrealized promises, the people of California began to think that Congress was not sufficiently alive to their pressing needs for adequate organization of government, and the propriety of themselves taking the initiative in this direction became daily more convincing. The leaders of popular thought asserted that in the absence of Congressional action the people had a positive right to organize a civil government.³⁹ Much impetus toward this step was given by the arrival from Oregon of several companies of settlers, among whom were several who had taken a leading part in the formation of the provisional government of Oregon.⁴⁰ In an editorial entitled "Shall We Have a Civil Government?" the *Star-Californian* complained of the anarchical conditions in California, and urged the people to act immediately "for the organization of some kind of government."⁴¹

The first meeting in favor of a provisional government for California was held in San José on December 11, 1848. It was recommended at that meeting that a general convention should be held at San José on March 2, 1849, to form a civil government. The proceedings of the meeting were published and disseminated among the several communities in the northern portion of California. A large and enthusiastic meeting was held in San Francisco on December 21 which unanimously concurred in the recommendations passed at San José. The resolution drawn up at this meeting declared that whereas Congress had neglected to organize a civil government for California, and thus had left her without any protection in the face of increasing crime, it was therefore necessary that the people themselves should form a provisional government, and admin-

³⁷ The letter is given in Buchanan, *Works*, VIII, 211-15.

³⁸ H. Ex. Doc. 17, 30 Cong., 1 Sess., 258-59 (573).

³⁹ Burnett, *Recollections of an Old Pioneer*, 294; Taylor, *Edlorado*, I, 147.

⁴⁰ In the absence of any organized government on account of the conflicting claims of the English and the United States governments, the settlers in Oregon decided to establish a provisional government. Peter Burnett, who was one of the immigrants to California in 1848, had taken an active part in the Oregon provisional government.

⁴¹ San Francisco *California Star and Californian*, Dec. 2, 1848. The *Californian* was merged with the *California Star* in November, 1848, with Edward C. Kemble as the editor. (See Wagner, H. R., *California Imprints*, p. 14.)

ister the same. A corresponding committee of five members was appointed to communicate with the other districts.

The *Alta* approved of this movement. "The recent large and unanimous meetings in the Pueblo de San José and in this town, in favor of immediate action for the establishment of a provisional government," it said, "are believed to be a fair index of the feeling of the community throughout the Territory."⁴²

Similar meetings were held at Sacramento on January 6 and 8, 1849, with Burnett as president. The resolutions, which were adopted unanimously, declared that whereas Congress had neglected to extend the laws of the United States over California, leaving the inhabitants without any laws for the protection of their lives and property, it was therefore necessary that a provisional government should be formed to enact laws and administer the same. The recommendations of San José and San Francisco in favor of establishing a provisional government were concurred in.⁴³ Meetings for the same purpose were also held in Monterey and Santa Cruz.⁴⁴

The *Alta* supported the movement and did much to arouse public opinion throughout the territory. On January 11, 1849, it published Benton's letter which advised the people of California to do what they were already beginning to do. Commenting upon it, the *Alta* said: "In the main this letter is a well meaning document, but he has evidently mistaken the calibre of the community he was addressing. It partakes strongly of the tone which pedagogues may be supposed to assume toward a pupil."⁴⁵ Although the people resented Benton's officious tone, his letter was bound to encourage them to proceed with the step they had already begun.

But in spite of the unanimous agreement as to the need of a provisional government, there was lacking a common agreement as to the time of the election and as to other matters. At the San José meeting it was recommended that the convention to form a provisional government should be held on the second Monday of January, 1849. The San Francisco meeting thought this date too early to allow communication with the remote districts in the territory. The date for the convention was therefore postponed to March 5. On account of the inclemency of the weather⁴⁶ and the difficulty of communication among the several districts, the San Francisco committee of correspondence issued a recommendation that the meeting of the proposed convention be postponed to May 1, thereby giving the southern districts plenty of time to arrive at the convention. Another reason for the postponement of the convention given by the corresponding committee was that intelligence from Washington had been received holding out much hope that Congress would before the end of the session form a territorial government for California. Hence in order to avoid premature action and probable collision, it would be advisable to postpone action until the proceedings

⁴² Quoted in Burnett, *Recollections*, 295.

⁴³ San Francisco *Alta*, Jan. 25, 1849.

⁴⁴ Colton, *Three Years in California*, 373; San Francisco *Alta*, May 12, 1849.

⁴⁵ San Francisco *Alta*, Jan. 18, 1849.

⁴⁶ It was a very wet winter and all the communications had to be carried by pony express.

of Congress might be known.⁴⁷ The postponement was agreed to over the protests of the delegates from Sacramento.⁴⁸ About a month later the date of the proposed convention was further postponed to August, to await the action of Congress.

Congress and the Territorial Question. The second session of the Thirtieth Congress, from which the people of California had expected so much, met on December 4, 1848. By this time the population of California had much increased, and the need for a territorial government had become more potent. In his annual message of December 5, 1848, President Polk again urged Congress to organize a territorial government for California and New Mexico. He invoked Congress to act not as partisans but as patriots; and he suggested, as a compromise on the vexatious slavery question, either the extension of the Missouri Compromise line of 36° 30' to the Pacific, or the submission of the question to the judiciary.⁴⁹

Realizing the difficulty of passing a territorial bill, Douglas, of Illinois, devised a new plan, namely, to admit California as a state, leaving the question of slavery to be decided by the citizens themselves.⁵⁰ On December 11, he introduced in the Senate a bill for the organization into a single state, to be called California, of all the territories acquired from Mexico by the Treaty of Guadalupe Hidalgo, reserving to Congress the right to form new states out of any portion of the territory lying east of the Sierra Nevada.⁵¹ The discovery of the precious metals, he said, would soon draw to California a population "far exceeding the number requisite to entitle her to admission as a State into the Confederacy."⁵² Knowing the composition of the Judiciary Committee (four out of its five members were from the slave-holding states), Douglas fought hard to have the bill referred to the Committee on Territories, of which he was chairman. But the Southern Senators insisted that the bill should go to the Committee on the Judiciary. Douglas lost out and the bill was referred to the Committee on the Judiciary.⁵³

On January 9, the committee reported adversely upon the bill, basing its opinion upon the following grounds: In the first place, the territory was "inhabited by a people the greater portion of whom are strangers to our Constitution and laws . . . unfitted, in their present condition, to be incorporated into the Union on terms of political equality with the people of the United States." In the second place, the Constitution conferred on Congress the "power to *admit* new states, not to *create* them," for the creation of states was an act of

⁴⁷ The address of the San Francisco committee of correspondence was published in the *Alta*, Jan. 25, 1849.

⁴⁸ Burnett, *Recollections*, 317.

⁴⁹ Richardson, *Messages*, IV, 638; McCormac, *Polk*, 641-42. At a cabinet meeting Polk expressed his apprehensions that if California should be left without a territorial government for another year, she might be lost to the Union, by the establishment of an independent Pacific republic. Polk, *Diary*, IV, 231.

⁵⁰ Johnson, *Douglas*, 134-35.

⁵¹ Bill is given in *Cong. Globe*, 30 Cong., 2 Sess., 21.

⁵² *Ibid.*

⁵³ *Ibid.*, 49.

popular sovereignty, not of ordinary legislation. And, lastly, the territory proposed in the bill was too large for one state, and after her admission into the Union, Congress could not dismember from her any portion without her consent.⁵⁴

Downs, of Louisiana, was the only member of the committee who dissented from the majority report. He opposed the rejection of the bill, preferring that it should be amended so as to be acceptable to all. He pointed out that if the committee considered it improper to admit California into the Union as a state, it could modify the bill so as to make it prospective, to admit her after the framing of a constitution. California, he said, was in an extraordinary position and

... if Congress does not act immediately in this matter, before another opportunity for action will be offered there will be sufficient population in California to form two or three States. This population will be composed of American citizens, men possessing energy, enterprise, and talents, who have been accustomed to govern themselves, and able to institute a government of their own. . . . They will organize a government for themselves. . . . I hardly suppose that they will think it competent or desirable for them to come back to a government which has neglected them so long.⁵⁵

Douglas attempted to refute objections against the admission of California into the Union. He claimed that Congress was competent to admit California at once, for the government *de facto* was unsatisfactory, and was not legal. He also claimed that Congress was competent to admit a state before it had drawn up a constitution.⁵⁶ Douglas was persistent. On January 16 he offered a substitute for his original bill. The substitute empowered the acting governor to divide the proposed state into districts for the election of delegates to a convention for the purpose of framing a state constitution, with the Sierra Nevada as the eastern limit of the new state.⁵⁷ The bill was referred to a select committee of seven, of which Douglas was chairman. On January 29, the committee reported the bill with an amendment to admit also New Mexico as a state.⁵⁸ The Senate, however, refused to consider this proposition, and thus another attempt to provide a government for California failed.

A more successful effort in this direction was made in the House. On December 13, 1848, Root, of Ohio, introduced a resolution instructing the Committee on Territories to report a bill providing territorial governments for California and New Mexico, excluding slavery therefrom. The resolution was adopted by a vote of 107 to 80. The negative vote came from the slave states.⁵⁹ On the twentieth of December, the chairman of the Committee on Territories reported a bill to establish a territorial government for California excluding slavery therefrom.⁶⁰ During the time the bill was before the Committee of the

⁵⁴ *Cong. Globe*, 30 Cong., 2 Sess., 190-92.

⁵⁵ *Cong. Globe*, 30 Cong., 2 Sess., 193-94.

⁵⁶ *Ibid.*, 192.

⁵⁷ Bill is given in *ibid.*, 262. President Polk favored the admission of California as a state; he was, however, of the opinion that the territory as embraced in Douglas' first bill was too large to form one state. He therefore suggested that Douglas should modify his bill with regard to this matter. Polk, *Diary*, IV, 232-33.

⁵⁸ *Cong. Globe*, 30 Cong., 2 Sess., 381.

⁵⁹ *Cong. Globe*, 30 Cong., 2 Sess., 39; Wilson, *Rise and Fall of the Slave Power in America*, II, 28.

⁶⁰ *Cong. Globe*, 30 Cong., 2 Sess., 71.

Whole, various motions were made. Preston, of Virginia, a Whig, proposed, as a substitute for the bill on the table, one similar to Douglas' bill. He contended that the people of California should be at liberty to organize a government for themselves.⁶¹ A proposition was even made by Schenck, of Ohio, to retrocede to Mexico all the territory acquired by the Treaty of Guadalupe Hidalgo, retaining only the "Bay of San Francisco and the branches of the navigable rivers therefrom." He made this proposition, he said, in all seriousness, on the ground that the acquisition of these territories had brought to the country trouble which threatened to destroy the Union. Indeed, he believed that the California "gold fever" was threatening "to convert us all into a nation of gamblers."⁶² After considerable debate, the bill of the committee passed the House by a vote of 126 to 87, the opposition again coming from the slave states.⁶³ The Senate, however, in spite of the efforts of Douglas, refused to take it up.

Before the session was over another attempt was made to deal with the question of government in the new territories. While the bill making appropriations for civil and diplomatic expenses of the United States was under consideration in the Senate, Walker, of Wisconsin, moved an amendment extending the laws of the United States over the territories acquired from Mexico and authorizing the President to prescribe rules and regulations for their enforcement.⁶⁴ The advocates of this measure realized that the manner in which the subject had been introduced was irregular, but they considered that the end justified the means, and, as Greeley points out, they must have calculated that many of the friends of the new administration would permit the amendment to pass rather than endanger the passage of the general appropriation bill. Failure of the appropriations bill to pass would, of course, embarrass the incoming administration through lack of funds.⁶⁵

In spite of Walker's assurance that his motives in introducing this amendment were pure, and that he simply felt it his duty to discharge an obligation to the newly acquired territories, the anti-slavery men were up in arms against the amendment. They considered it an attempt to smuggle slavery into the territories. A long debate ensued, in which Webster and Calhoun took the most prominent parts. Webster objected to the character of the subject as well as to the manner in which it was introduced. Calhoun asserted that the Constitution of the United States extends over newly acquired territories, for the Constitution is the supreme law of the land, and the territories are a part of the land.⁶⁶ Webster questioned the theory. He maintained that the Constitution extended only over the states.⁶⁷ Walker's amendment was finally adopted in the Senate by a vote of twenty-nine to twenty-seven,⁶⁸ but the House rejected the amend-

⁶¹ *Ibid.*, 477-78.

⁶² *Ibid.*, 557-58.

⁶³ *Ibid.*, 609.

⁶⁴ *Cong. Globe*, 30 Cong., 2 Sess., 561. The bill was a Southern measure; probably Foote of Mississippi and Calhoun had their fingers in the pie. Benton, *Thirty Years' View*, II, 729.

⁶⁵ Horace Greeley, *The American Conflict: Its Causes, Incidents, and Results*, I, 191.

⁶⁶ *Cong. Globe*, 30 Cong., 2 Sess., App. 273.

⁶⁷ *Ibid.*

⁶⁸ *Cong. Globe*, 30 Cong., 2 Sess., 595.

ment⁶⁹ and the bill was returned to the Senate in its original form. The Senate at first refused to recede from its position, but after considerable excitement and even several fist fights, it finally adopted the bill without the amendment.⁷⁰

Although Congress had failed to provide a government for California, it nevertheless succeeded in passing a bill to extend the revenue laws of the United States over California. The bill was urged by the commercial interests of the Atlantic Coast in order to protect the American merchants against foreign importers. In spite of the protests of several Senators and Representatives, that it was "utterly un-American to wring taxes out of a people that we refuse to govern," the bill became a law.⁷¹

Municipal Government of San Francisco. The several postponements of the territorial convention, the return of the miners to the mines, and the expectation that Congress would make some provision for California, dampened the ardor of the advocates of a provisional government. Some, however, were impatient with delay and several of the districts proceeded to organize local governments;⁷² but except in the case of San Francisco nothing seems to have resulted from these local attempts.

Local affairs in San Francisco were in a more grievous plight than in the other districts. From the beginning the town was more purely American than probably any other in the territory, hence dissatisfaction with the existing government was always strong there. The discovery of gold had given a tremendous impetus to the city's growth. By the middle of 1849 her population reached about ten or fifteen thousand souls. This rapid growth and the influx of a large heterogeneous population made the need of an organized government more urgent here than elsewhere.

On December 31, 1848, the term of the existing town council expired. A new council had been elected on December 27, but the old council, which had been elected in accordance with Mason's order, declared the election invalid, on the ground that a certain number of illegal votes had been cast. The old council ordered a new election. The *Alta* denounced the action of the council as an "unwarrantable assumption of power," and claimed that four-fifths of the population refused to vote at the called election.⁷³ The election was held on January 15, 1849, and another set of councilmen was elected. For a short time there were two councils, conducting a warfare of orders and counter-orders. The old council supported the men elected in January, but the majority of the people recognized those elected in December.⁷⁴ Disgusted with the warfare of the councils, the leaders of popular thought called a public meeting to devise a new plan

⁶⁹ *Ibid.*, 665. By a vote of 114 to 110.

⁷⁰ *Ibid.*, 691.

⁷¹ *Ibid.*, 691-92.

⁷² Soulé, *Annals of San Francisco*, 135; Moses, *Establishment of Municipal Government in San Francisco*, 37, Johns Hopkins University Studies in Historical and Political Science, Seventh series, II-III, February and March, 1889.

⁷³ *Alta*, March 29, 1849. Quoted by Burnett, *Recollections*, 307. It is claimed that it was a conflict between the Democratic and conservative aristocratic elements. The Democrats favored a plan of government more adapted to a Yankee town. Ryan, *California*, II, 250-53.

⁷⁴ Soulé, *Annals of San Francisco*, 218-21.

of municipal government. The meeting was held on February 12, 1849. The plan of government adopted replaced the town council by an elective legislative association of fifteen members who should have power to pass all necessary laws, "provided they did not conflict with the Constitution of the United States, nor the common law thereof." Provision was also made for other officers.⁷⁵ The election was held on the day appointed,⁷⁶ and in March the legislative assembly held its first meeting.

Fearing, however, that its proceedings might be termed revolutionary, the assembly addressed a letter to General Persifor Smith, who had arrived on February 26 to succeed Mason as commander of the Pacific military division. In this letter the assembly stated the motives which had impelled the people of San Francisco to organize the new government. It set forth at considerable length the views held by the people of California on the question of the legal status of the territory, which were quite different from those held by the administration. It will be remembered that the administration held that the termination of the war left a government *de facto* in full operation to be continued with the presumed consent of the inhabitants until Congress could provide a government. The legislative assembly took an opposite point of view. It pointed out that, in spite of the declaration of the commanders that the "former usages must remain in force," those usages had never been promulgated to the people, with the result that, of the whole Mexican system, only the *alcaldes* had been retained, and in the absence of a well-defined law, were "tacitly permitted to obtain and exercise a most extensive and unlimited jurisdiction, wholly incompatible with the dictates both of reason and justice and the increased necessities of the people." In the hope that Congress would soon relieve them from this unpleasant state of affairs, the people patiently submitted. But when the people began to realize that Congress was not anxious to provide the necessary organization for California, they felt that they had a right to act for themselves. Moreover, as the President had merely "advised" the people of California to submit a little longer to the *de facto* government, and

... left the matter to the consent of the people, it clearly [showed] that the consent of the people must first be obtained before it [could] be *de facto* in force; and that, without that consent being given, they have the right to create any government they may think necessary for their protection.⁷⁷

A week later General Smith replied with a somewhat noncommittal letter. He expressed his sympathy with the local attempts to establish more adequate regulations for police purposes. But the opinions promulgated by the President in regard to the legal status of California, he declared, were sound and must be upheld, and he should consider it his duty to use every effort to prevent the establishment of even the best government "on a false basis."⁷⁸ He told Burnett

⁷⁵ San Francisco *Alta*, Feb. 15, 1849; H. Ex. Doc. 17, 31 Cong., 1 Sess., 729-30 (573). Burnett, *Recollections*, 308-310; Moses, *Establishment of Municipal Government in San Francisco*, 37-38.

⁷⁶ H. Ex. Doc. 17, 31 Cong., 1 Sess., 731 (573); Soulé, *Annals of San Francisco*, 220.

⁷⁷ The San Francisco Committee to General Smith, March 10, 1846. H. Ex. Doc. 17, 31 Cong., 1 Sess., 732-35 (573).

⁷⁸ General Smith to the San Francisco Committee, March 27, 1849. *Ibid.*, 735-37 (573).

(the leader of popular opinion) that although he regretted the unsatisfactory condition of governmental affairs in California, still he believed that until Congress should provide a government there could be no other remedy.⁷⁹

Burnett of course entertained a different opinion with regard to this matter. In a long article printed in the *Alta*, he presented fully the point of view of the American settlers:

Have the people of California any rights? [he asked] If so, what is their extent? Have they not certain rights, founded, based, and implanted in man's very nature—that belong to them as men, as human beings—rights that derive no force from human legislation, but trace their origin up through nature to nature's God? . . .

The question whether the people of California under existing circumstances have the right to exercise that power inherent in human nature—the power to institute the government for the protection of life, liberty, and the right of property—is a question that does not rightfully belong to the executive department of the government to determine; much less does it come within the province of a subordinate military commander.

He then went on to assert the right of the people of California to organize a government for themselves in the absence of Congressional action, and he denied the power of the President to continue the *de facto* government “without any actual consent of the inhabitants.”⁸⁰

Riley Calls a Constitutional Convention. On April 12, 1849, Brigadier General Bennet Riley arrived to succeed Colonel Mason as civil governor of California. Riley immediately recognized the grave difficulties to be encountered in attempting to administer the civil affairs of a province without a well-established system of government. On assuming command, he and Colonel Mason agreed to “complete the organization of the existing government; at the same time to call a convention for forming a State constitution, or plan of Territorial government, to be submitted to Congress for its approval.” But on further deliberation he decided to postpone all action until he could learn what Congress had done with regard to this subject.⁸¹

Meanwhile Riley attempted to give the impression that his government was really civil and not military and that the executive officer, although a military man, was simply acting in a civil capacity, *ex officio*, according to the provisions of the law they were trying to carry out. But the people of California could not understand what right a military officer had to govern United States territory in time of peace. Said “Pacific” in the *Placer Times*:

I would ask from whence are derived the powers and instructions of Generals Smith and Riley to style themselves administrators and directors of civil affairs in this land and to say to the inhabitants thereof that we have no right whatever to open our mouths or take any action in the premises.⁸²

On May 28 the steamer *Edith*, which had been dispatched by Riley to Mazatlan to get the Congressional news, returned with the intelligence that Congress had adjourned without passing any territorial bill for California, but

⁷⁹ Burnett, *Recollections*, 310.

⁸⁰ The article which appeared in the *Alta*, April 26, 1849, is quoted in Burnett, *Recollections*, 311-16.

⁸¹ Riley to Major General Jones, June 30, 1849. H. Ex. Doc. 17, 31 Cong., 1 Sess., 748-52 (573).

⁸² Sacramento *Placer Times*, May 26, 1849.

had passed a bill to extend the United States revenue laws over the territory.⁸³ The people were naturally indignant. In an editorial headed "A Legal Outrage," the *Alta* denounced the act of Congress as a violation of the greatest principle of the American Declaration of Independence, "no taxation without representation." It asserted that the injustice of wringing a few dollars from the hard-working miners would be strongly resented in California.⁸⁴

To prevent the people from taking the initiative in their own hands, and to give the movement toward a provisional government a more legal and orderly character, Riley issued a proclamation on June 3, calling a constitutional convention. In the first part of this lengthy paper he undertook to refute some of the misconceptions current among the people in regard to the character of the existing government. He asserted that with the termination of the war the military government had ended and "what remains is the *civil* government recognized in the existing laws of California." In the absence of a properly appointed civil governor, the military and civil affairs had been entrusted to the same individual, yet the offices "are separate and distinct." The situation in California was therefore very different from that of Oregon, for while the latter was without any laws, the former had a system of laws, though somewhat defective. However, since Congress had failed to organize a territorial government, he thought it was his duty to take some means to provide for the existing needs of the country. This could be accomplished by putting into full vigor the administration of the law, filling its offices by the election and appointment of officers. He therefore ordered an election to be held on August 1, for judges, prefects, alcaldes, etc.

He also ordered that on the special election day there should be chosen thirty-seven delegates representing all the districts of California to meet in convention at Monterey on September 1, to form a "State constitution, or a territorial organization, to be submitted to the people for their ratification, and then proposed to Congress for its approval."⁸⁵ He carefully defined the districts in which the delegates should be chosen, prescribing the number of delegates, though allowing to any district that might think itself entitled to a greater representation the right to elect delegates whose admission would be left to the decision of the convention. Also the qualification of suffrage was outlined. Only free male citizens of the United States and of California were allowed to vote.

In conclusion, Riley declared that the course outlined in the proclamation was the one "advised by the President, and by the Secretaries of State and of

⁸³ Fitch, *How California Came into the Union*. In Pamphlets on California, Vol. XXVI, Dec. 5, p. 783.

⁸⁴ San Francisco *Alta*, May 24, June 2, 1849.

⁸⁵ He wrote to Washington that the majority of the people preferred a state government to avoid the difficulties of the slavery question. H. Ex. Doc. 17, 31 Cong., 1 Sess., 749 (573).

War.”⁸⁶ Moreover, it was the most expedient one to “avoid the innumerable evils which must necessarily result from any attempt at illegal local legislation.”⁸⁷

The People Acquiesce. The majority of the people of California denied the right of General Riley to call a convention, contending that, in the failure of Congress to provide a government, the “right to pursue such a course was inherent in the people.” In San Francisco a large and enthusiastic mass meeting was held in Portsmouth Square on June 12. Addresses were made by Dr. William M. Gwin⁸⁸ and Thomas Butler King,⁸⁹ the confidential agent of President Taylor. The resolutions adopted declared that Congress, having failed to organize a government for the territory, the “people of California have the undoubted right to organize a government for their own protection.” The people of California were called upon to assemble

... in their sovereign capacity, and elect delegates to a convention to form a constitution for a State government, that the great and growing interests of California may be represented in the next Congress of the United States, and the people of this country may have the necessary protection of law.

The other districts were invited to unite in the effort to organize a government. A committee was appointed to correspond with the other districts, to set a date for the election of delegates and the meeting of the proposed convention. A proposition to accept the date fixed by Riley was rejected.⁹⁰

Two days later there appeared in the *Alta* an address delivered in the San Francisco legislative assembly wherein it was declared that the extension of the revenue laws over California without providing a government was a violation of the fundamental principle “no taxation without representation.” The

⁸⁶ It is not clear to what executive advice Riley is here referring. It is true that the position taken by him was fully in accord with the instructions of President Taylor to his confidential agent King. But the proclamation was issued before King had arrived in San Francisco, which was on June 4. The steamer did not stop at Monterey, hence King had no communication with Riley until about the middle of the month. (King, *California*, 9, 20.) Upon his return to Washington, King published a card designed to show that it was Polk's administration which had induced the people of California to form a state government, and Riley's statement that he had been advised by the President and Secretaries must have referred to Polk and his Secretaries. Buchanan denied that he ever had any communication with Riley, “verbal or written, on the subject of forming a State government for California.” And as far as he knew, neither the President nor Marcy ever gave such authority or advice to General Riley. Also Marcy denied that he ever gave such instructions to Riley. The correspondence appeared in the *Washington Union*. Letters are quoted in the *San Francisco Pacific News*, May 4, 1850.

⁸⁷ H. Ex. Doc. 17, 31 Cong., 1 Sess., 776-80 (573); *Sacramento Placer Times*, June 23, 1849. Riley's proclamation was approved later by the War Department. *Ibid.*, 279-80 (573).

⁸⁸ Dr. Gwin and King arrived in California June 4. Gwin tells in his *Memoirs* that before he left Washington he had told Senator Douglas that he was going to California to advocate a state government and that within a year from that day he would come to Washington as a Senator from California. Gwin, “*Memoirs*,” Ms 5 (Bancroft Library).

⁸⁹ According to the *Pacific News*, Oct. 16, 1849, King urged the people to establish a state government, promising them the support of the administration. In view of the fact that much was said in Congress about executive interference in California, it may be worth while to examine briefly the instruction of the President to King as stated by Secretary Clayton in his communication to the confidential agent dated April 3, 1849. King was here told to convey to the people of California assurances that President Taylor would do everything within his power to promote their interests. He was also to suggest to the people “the adoption of measures best calculated to give them effect.” But these measures should “originate solely with themselves” and “without the interference of the Executive.” H. Ex. Doc. 17, 31 Cong., 1 Sess., 9-11 (573).

⁹⁰ The resolutions and proceedings of the meeting were printed in the *Alta* of June 14, 1849. They are also given in Burnett, *Recollections*, 322-23.

address recommended that each district should elect twelve delegates to "attend a general Convention to be held at the Pueblo de San José on the third Monday of August next, for the purpose of organizing a government for the whole Territory of California. . . . *We have that question to settle for ourselves; and the sooner we do it, the better.*"⁹¹

At meetings held in other places, however, it was recommended to concur in the proposals of General Riley. The attitude taken at these meetings convinced the corresponding committee of San Francisco of the inexpediency of further opposing General Riley. In an address to the public issued on June 18, the committee again denied the power of General Riley to "'appoint' a time and place for the election of delegates and the assembling of the convention." But realizing the urgent necessity of success in the main object of forming a government, it deemed that it would be advisable to accede to Riley's recommendations.⁹² Likewise the *Placer Times*, which denied the right of Riley to govern California in any way, advised the people to acquiesce in the general's recommendations.

By this time Riley had received new instructions from Washington which he claimed were fully in accord with the views he had expressed in his proclamation. In this letter, dated April 3, Secretary Crawford declared that "the plan of establishing an independent government in California cannot be sanctioned, no matter from what source it may come. The territory belongs to the United States, and should be defended against all attempts to weaken or overthrow their authority."⁹³ Riley had his own apprehensions lest an independent government might be advocated. In a proclamation dated June 22, he explained the instructions from Washington with regard to an independent government.⁹⁴

The leaders of the local movement for a government made immediate reply to Riley's charges of designs for independence. Burnett denounced it as a "libel upon the people of California." He asserted that the people could never think of cutting themselves off from the Union, and "erecting a mere petty state to be the sport and play of all the great powers of the world."⁹⁵ The *Alta* admitted

⁹¹ San Francisco *Alta*, June 14, 1849. Extracts are quoted in Burnett, *Recollections*, 320-21. The author of this proclamation, Burnett, says in his *Recollections* that it was written by him "in entire ignorance" of General Riley's proclamation of June 3, but which was unknown in San Francisco until June 9. Burnett, *Recollections*, 318; San Francisco *Alta*, June 14, 1849.

⁹² San Francisco *Alta*, June 19, 26; also quoted in Burnett, *Recollections*, 325-26. This address was partly in response to Riley's proclamations of June 3 and June 4, in which he declared that the "Legislative Assembly of San Francisco had usurped powers which are vested only in the Congress of the United States." H. Ex. Doc. 17, 31 Cong., 1 Sess., 773-74 (573). Burnett believed that the San Francisco committee "had the power to defeat General Riley's proclamation by recommending other days," but they did not think such action expedient, especially since the general had the control of the civil fund. Burnett, *Recollections*, 333.

⁹³ Crawford to General Smith, April 3, 1849. H. Ex. Doc. 17, 31 Cong., 1 Sess., 273-74 (573). The scare of an independent government was due to General Smith's letter of February 15, telling that he found "some persons going out armed with Colonel Benton's letter to set up a government for themselves." *Ibid.*, 710.

⁹⁴ *Ibid.*, 785.

⁹⁵ It was published in the San Francisco *Alta*, July 12, 1849. Extracts are given in Burnett, *Recollections*, 327-29.

that the question of independence was frequently discussed in an "argumentative way."⁹⁶

Conclusion: Legal vs. Moral Right. Undoubtedly there were some who in an "argumentative way" talked of independence, but no such attempt was actually made. The majority of the Americans in California simply wanted a system of government adequate to the needs of the country. The effete and dilapidated Mexican system, suited to the wants of a pastoral people, was utterly inadequate to the needs of the growing, active American population, and repugnant to American ideas of justice.

The Westerners, with their strong belief in their "inalienable rights," could not appreciate the fine points of international and constitutional law as they were explained to them by their military governors. They could not appreciate the argument that, until the country was definitely ceded to the United States, the government must be military, and existing laws not in conflict with the Constitution of the United States must be continued. They believed that, since California would undoubtedly remain in the hands of Americans, the Constitution and laws of the United States should be immediately extended over the territory, and that their personal rights and privileges should be the same as those enjoyed in any other portion of the Union.

The situation seemed to them especially anomalous after the formal cession of California to the United States. They could not at all appreciate the theory that the military government established in the territory under the laws of war had, by the termination of the war, become a *de facto* government in full operation "with the presumed consent of the inhabitants," and that, until Congress should legislate for California, this government must be continued there. The settlers, who were far from being convinced of the sanctity of that undefined thing and "nonsense which had so long been placed upon the world as the law of nations," were not willing to accept the doctrine that all the laws in force in a ceded province at the time of the cession must continue in operation until superseded by those of the government to which the territory had been ceded. They acknowledged that the power to legislate for the territory was vested in Congress. But since that body neglected to exercise this prerogative, they deemed it no usurpation of powers when the people themselves exercised that authority. The right of self-government, they claimed, was based upon the "original and natural right of society to protect itself by law."

Thus we see that behind this long controversy between the administration and the American settlers, were struggling two opposing theories of right: legal right and moral right, the latter sometimes called "natural right." That the settlers were morally right there can be little doubt, and much may even be said in their favor from the point of view of legal right. What did these settlers want? They simply asked for a civil government sufficiently effective to protect life and property upon principles just and intelligent to them. But the answers of the Washington government to this just demand were naught but promises

⁹⁶ San Francisco *Alta*, July 2, 9, 1849.

for the future. Now international laws are after all merely "counsels of morality sanctioned by the public opinion of states." The assumption is that the principles are based on justice. The question is: has a state a right to modify these principles when under certain conditions their application, instead of promoting justice, leads to opposite results? Ordinarily, the practice of continuing in force the municipal system of a conquered territory during its military occupation is just and salutary, for the natural inference is that the existing system is well suited to the needs of the conquered inhabitants, and is acceptable to them, while a change would cause hardship. But in the case of California, the application of such a principle seemed to be unjust. For there the existing system of government was rendered inapplicable to the changed conditions when the larger and more energetic part of the population had become American, and was comprised, indeed, of many of those who had helped to conquer the country. Hence there were enough considerations in California to justify the demands of the American settlers.

Nor can we blame the settlers for taking into their own hands the power to organize a government. When, after two sessions of grappling with the question of government for the territories of the Mexican cession, Congress could, on account of the slavery question, come to no agreement, then the settlers were fully justified in acting for themselves. This they did.

CHAPTER IV

THE CONSTITUTIONAL CONVENTION AND THE ORGANIZATION OF A STATE GOVERNMENT

General Characteristics of the Convention. A detailed discussion of the Constitutional Convention is beyond the scope of this article.¹ There are, however, certain factors bearing directly upon its subject which will be considered briefly.

First, a few words about the general character of the Convention. It was a typical frontier constitutional convention. In some districts, the miners took hardly any steps to prepare for the election until a few days before the date set by General Riley. In Stockton, the election was held a few days after the regular election day.² The Convention was to open on September 1, but there was no quorum present on that day. The delegates met in Colton Hall, built of stone from the neighborhood of the town, and formerly used as a school house.³

¹ The best account of the California constitutional convention of 1849 is given in Goodwin, *Establishment of State Government in California*.

² Taylor, *Eldorado*, 1, 148; Browne, *Report of the Debates in the Convention of California on the Formation of the State Constitution in September and October, 1849*, Washington, 1850. In the future this work will be cited as Browne, *Debates*.

³ "Delegates came up from the lower country, with their bands of horses, in the old time style." There were no hotels or restaurants in Monterey, hence the question of providing rooming and boarding facilities for the delegates was quite a problem. Taylor, *Eldorado*, 1, 149; Willey, *Transition Period*, 91; Willey, "Recollections of General Halleck," *Overland Monthly*, July, 1872, Vol. IX, No. 1.

The membership of the Convention was of a cosmopolitan character: there were native Californians, Americans, a Swiss, a Spaniard, an Irishman, and a Frenchman. It was a convention composed of young men. Botts was "impressed with the absence of those gray hairs which he had seen in assemblies of this solemn character in the older States."⁴ Of the forty-eight delegates, more than thirty were less than forty years old. Several were even under thirty. Many of the delegates had been in California only a short time, thirteen not over one year; and three only about four months.⁵ The president, Dr. Robert Semple, was a typical frontiersman in many respects.⁶

State or Territorial Government. One of the first questions to be discussed was whether it was desired to organize a state government or whether the convention should propose to Congress a plan for a territorial government. It will be remembered that General Riley's proclamation calling a convention referred to a territorial as well as a state government. The native Californians, being large landowners, feared lest the heavy taxes of a state government would fall upon them—they therefore favored a territorial government. Telft and Foster stated that in compliance with the wishes of their constituents they would be compelled to vote for a territorial government.⁷ But the great majority of the American delegates were firmly in favor of a state government. Gwin had already stated that the constitution was being made not for the native Californians but for the "great American population."⁸ Wozencraft maintained that the delegates to the convention had been elected for the purpose of forming a state government.⁹ Carrillo, of Los Angeles, proposed to divide the territory so that all north of the line of San Luis Obispo might form a state government, while the country south of that line might have a territorial government.¹⁰ But to this proposition not even all the southern delegates agreed. Foster, of Los Angeles, said he favored a territorial government, but he and his constituents were opposed to separation. The vote in favor of a state government was twenty-eight to eight.¹¹

The Negro Question. The next important step was the exclusion of slavery from the state. The section in reference to this subject was introduced by Shannon, of Sacramento, a native of Ireland. It provided that "neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this State." It was adopted without any opposition.¹²

Many wanted to go farther and prohibit even free negroes from settling in

⁴ Browne, *Debates*, 27-28.

⁵ See the classified list of the delegates in Browne, *Debates*, 478-79.

⁶ See Radcliffe, Z. G., "Robert Baylor Semple, Pioneer," this *Quarterly*, June, 1927, Vol. VI, No. 2, pp. 130-58.

⁷ Browne, *Debates*, 21.

⁸ *Ibid.*, 11.

⁹ Browne, *Debates*, 21.

¹⁰ *Ibid.*, 22.

¹¹ *Ibid.*, 23.

¹² *Ibid.*, 43-44. Colton, *Three Years in California*, 374, claimed that the clause against slavery had "nothing to do with slavery in the abstract," that "not one in ten cares a button for its abolition, nor the Wilmot provision either;" it was simply because the miners objected to swinging their picks "by the side of Negro slaves."

California. A provision to that effect was introduced by McCarver¹³ and occasioned much discussion. Semple asserted that the constituents of his district were unanimously in favor of such a provision.¹⁴ Shannon claimed that free negroes ought to have a right to settle in California the same as any other people. Besides, they were required in all departments of domestic life.¹⁵ Gilbert pointed out that, even if the people of California were fully in favor of such a measure, it would be inexpedient to adopt it, for it might jeopardize the interests of the new state. He pointed to article four, section two, of the United States Constitution, which declares that the "citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States." Hence the proposed measure would conflict with the United States Constitution.¹⁶ Jones, a native of Virginia and a delegate from San Joaquin, pointed out that the delegates were acting according to the interests of their districts. "I acknowledge," he said, "that it is to the interest of gentlemen from San Francisco that they should have their body servants at the lowest possible price. But it is a question of vital importance to the people of the mining districts."¹⁷ Semple declared that he "would prefer being kept out of the Union to all eternity," rather than "admit these herds of free negroes."¹⁸

The proposition was finally rejected. An analysis of the arguments and political affiliations of the leaders indicates that local sectionalism as well as "old sectionalism" entered into the contest, and that the issue was not one merely between the mining districts and the towns of San Francisco and San José.¹⁹ Southern men were the advocates of the measure. We find Steuart and Hoppe, natives of slave states, advocating the measure although they were representing San Francisco and San José, respectively; while Shannon, a native of Ireland, and a delegate from Sacramento, opposed it. The final vote is no indication of the actual feelings of the delegates. Many voted against the measure, fearing it might impede the admission of California into the Union; others were in favor of leaving this matter to the legislature. It is a mistake to think that men who had been born and raised in the South or North lost all their sectional prejudices after a brief residence in California. All that we can say is that local conditions tempered the old sectional prejudices.

Suffrage Privilege. The question of the right of suffrage also aroused considerable discussion. The eighth and ninth sections of the Treaty of Guadalupe Hidalgo provided that all Mexican citizens in the ceded territories who should remain there after the expiration of a year from the date of the signing of the treaty, "without having declared their intention to retain the character of Mexicans, shall be considered to have elected to become citizens of the United States," and were to be admitted "to the enjoyment of all the rights of citizens

¹³ Browne, *Debates*, 44, 137.

¹⁴ Browne, *Debates*, 138.

¹⁵ *Ibid.*, 139.

¹⁶ *Ibid.*, 149-151.

¹⁷ *Ibid.*, 333.

¹⁸ *Ibid.*, 332.

¹⁹ See Goodwin, *Establishment of State Government in California*, 126.

of the United States, according to the principles of the Constitution." But the admission to such privileges was to take place at the proper time, and this time was to be determined by the Congress of the United States.²⁰

The report of the committee on the constitution relating to the right of suffrage provided that

Every white male citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State six months next preceding the election, and [of] the county in which he claims his vote twenty days, shall be entitled to vote at all elections which are now, or hereafter may be, authorized by law.²¹

Gilbert claimed that this clause of the report did not cover the whole ground, for it did not mention former citizens of Mexico, who, according to the treaty, were to become citizens of the United States. He therefore offered an amendment, to include "every male citizen of Mexico, who shall have elected to become a citizen of the United States, under the treaty of peace."²² Botts proposed to amend the amendment by inserting the words "white male citizens of Mexico." By the word "white," Botts said, he was referring not to the color of the skin but to the white race, as opposed to the inferior African and Indian races.²³ Gilbert opposed the insertion of the word white, claiming that its insertion would create much difficulty, inasmuch as the Treaty of Guadalupe Hidalgo says Mexican citizens, and makes no distinction as to color. Furthermore, since the treaty is the supreme law of the land, no act of California could have any effect.²⁴

A lively discussion followed. Botts attacked the doctrine that the treaty of peace between the United States and Mexico could prescribe to whom should be extended the privilege of suffrage. He contended that the states of the Union were sovereign and that Congress itself could not interfere with the question of the right of suffrage within a state.²⁵ Gilbert and Hastings pointed out that the second section of the sixth article of the United States Constitution distinctly states that all the treaties made by the United States are the "supreme law of the land"; therefore, if the people of California disregarded the terms of the treaty, they also violated the United States Constitution, and the effect of such action might be the rejection of California's constitution.²⁶ If it is true, said Dent, that the treaty of peace between the United States and Mexico can interfere with the right of the convention to prescribe the qualifications of the voters of California, it means that the treaty destroys the sovereignty of the state.²⁷ Gilbert's amendment as amended was adopted. It gave the right of suffrage to white male citizens of the United States, and to every white male citizen of Mexico who had chosen to become a citizen of the United States under the

²⁰ Sen. Ex. Doc. 52, 30 Cong., 1 Sess., 46-47 (509).

²¹ Browne, *Debates*, 61.

²² *Ibid.*

²³ *Ibid.*, 62, 63.

²⁴ *Ibid.*, 63.

²⁵ Browne, *Debates*, 64.

²⁶ *Ibid.*, 63.

²⁷ *Ibid.*

Proclamation

To the People of California.

It having been ascertained by the Official canvass that the Constitution submitted to the people on the 13th day of November, was ratified by the almost unanimous vote of the electors of this State;
Now therefore, J. Bennet Riley, Brevet Brigadier General U. S. Army and Governor of California do hereby proclaim and declare the said Constitution to be ordained and established as the Constitution of the State of California.

Given at Monterey California, this
 12th day of December 1849.—

(signed) B. Riley
 Bvt Brig. Genl U. S. A.
 and Governor of California

By the Governor
 A. W. Bullitt
 Secy of State

Proclamation of Governor Riley proclaiming the ratification of the Constitution and declaring it to be the Constitution of the State of California.
 From the original in the collection of Mr. Hugh Wiley.

treaty of peace. The legislature was given the power to admit to the right of suffrage in special cases Indians or the descendants of Indians.²⁸

The Eastern Boundary. The most exciting debate of the convention concerned the question of the eastern boundary line. The other boundaries were well defined: the Pacific Ocean on the west, the forty-second parallel on the north, and the line between Upper and Lower California in conformity with the Treaty of Guadalupe Hidalgo on the south. The eastern boundary, however, was not so well defined. As a Mexican territory, California probably embraced

²⁸ *Ibid.*, 73; California Constitution of 1849, Article II, Section 1.

the entire area out of which the states of Nevada, Utah, and a part of Arizona were later carved. According to Riley's proclamation the eastern boundary of California extended to the Sierra. The question, then, before the convention was, what should be the eastern boundary of California as a state?

On September 12, the president appointed a committee of five to report to the convention, "what, in their opinion, should constitute the boundary of the State of California."²⁹ Two of the members of the committee were native Californians, and the other three had been in the territory for a number of years, and were therefore supposed to be familiar with the geography of California as a Mexican province. On September 18, the report of the committee was read and referred to the committee of the whole. The committee recommended that the eastern boundary should be extended to the 116th parallel. The reasons given by the committee against extending the eastern boundary farther east were: (1) should too much territory be included, the ultimate result would be a division of the state; (2) if the state were made too large, it would be difficult, if not impossible, to secure a fair representation in the legislature, especially since a great part of the interior would be cut off by the Sierra Nevada; (3) the Mormons who inhabited much of the territory farther east were not represented in the convention and probably would not care to have any political connection with California.³⁰

The boundary recommended by the committee met with considerable opposition, particularly from the "Gwin-Halleck firm," which advocated the extension of the eastern boundary to New Mexico, taking in all that was known as California under Spain and Mexico. Halleck added a provision that, should Congress limit the eastern boundary to the Sierra Nevada, the legislature should have power to acquiesce. The reasons for embracing this whole territory as stated by Halleck were: "it closes forever this agitating question of slavery in all the territory this side of the Rocky mountains"; were the question of slavery open, Congress would not be able to provide a government for the territory east of the Sierra for many years and the people there would be obliged "to resort to lynch law."³¹

The Gwin-Halleck proposal met with strong opposition from many sides. McCarver was in favor of fixing some permanent moderate line as the boundary of California, in the hope, thereby, to avert a possible future dispute between the federal government and California over the question of the boundary. Moreover, since the boundary proposed would embrace too much territory for one state, Congress might divide the territory east and west instead of north and south.³² Hastings, McCarver, Hoppe, and others were in favor of definite and moderate boundaries. "If you leave this boundary question open," said Hastings, "you leave open the question of slavery; and if you do, sir, we get no boundary at all, and can not have a State Government for three or four

²⁹ Browne, *Debates*, 54. A good account of the boundary discussion is given in Goodwin, *Establishment of State Government in California*, 133-74.

³⁰ Browne, *Debates*, 123-24.

³¹ *Ibid.*, 175-76.

³² Browne, *Debates*, 169-70.

years.”³³ McCarver also pointed out that the large boundary would be a “barrier against the admission of California into the Union.” Botts criticized the position taken by Gwin and Halleck, namely, to take the territory east of the Sierra, for the mere purpose of settling the slavery question there.

Sir, [he said] the avowal of this doctrine on the floor of this House necessarily and of itself, excites feelings that I had hoped might be permitted to slumber in my breast while I was a resident of California. But it is not to be. . . . Why not indirectly settle it [the slavery question] by extending your limits to the Mississippi?

He further contended that a number of small states on the Pacific Coast would have more power in the Senate than one large state covering the whole area.³⁴ Tefft was confident that the extreme eastern boundary would meet with favor in Congress, especially among the Free Soilers, and “Benton’s entire western faction.” But to him it was not so much a question whether or not this boundary would hasten the admission of California. “We should look to right and justice in the premises, and to the greatest good for the greatest number, whether we can settle the question of slavery or not,” he said.³⁵

Price was fully in favor of a well-defined boundary as proposed by the committee. “We are the best judges of what is good for us,” he said.

If Congress does not see fit to accept us with the boundary which we think proper to adopt, we can exist as an independent State, and we want that State to be a compact one. The people of California have an undoubted right to say what their boundary shall be, and this boundary will be just what they say. They are the sovereigns, sir; we do not want to hear another voice on the subject. . . .³⁶

Many other members of the convention participated in this animated discussion. And so exciting did it become on October 9, after the Gwin-Halleck proposition had been accepted, that the whole convention was thrown into disorder. Immediately upon the announcement of the vote several delegates “rose to their feet under much excitement.” McCarver moved to adjourn *sine die*. “We have done enough of mischief,” he exclaimed. Snyder shouted, “Your constitution is gone! Your constitution is gone!” From all sides of the hall there were cries of “order!” “order!” “the constitution is lost!” “I will sign it under a protest!”³⁷ After order was restored, the house adjourned. On the following day, after many more speeches and motions, the convention adopted Jones’ proposition fixing the eastern boundary as follows:

Commencing at the point of intersection of the 42d degree of north latitude with the 120th degree of longitude west from Greenwich, and running south on the line of said 120th degree of west longitude until it intersects the 39th degree of north latitude; thence running in a straight line in a south easterly direction to the River Colorado, at a point where it intersects the 35th degree of north latitude; thence down the middle of the channel of said river, to the boundary line between the United States and Mexico, as established by the Treaty of May 30th, 1848.³⁸

This boundary line was adopted by the overwhelming majority of thirty-two to seven.³⁹

³³ *Ibid.*, 173.

³⁴ *Ibid.*, 178-79.

³⁵ Browne, *Debates*, 424-25.

³⁶ *Ibid.*, 430.

³⁷ *Ibid.*, 441.

³⁸ *Constitution of the State of California*, San Francisco, 1849, Article XII. Also in Browne, *Debates*, 443.

³⁹ Browne, *Debates*, 458.

There is considerable difference of opinion among writers on California's history with regard to the motives that actuated the advocates of the various boundary lines. Those who wrote at the time when the ghosts of slavery were still abroad, when it was the fashion to find in every political struggle in which Northern and Southern men participated a slavocracy conspiracy, found in this boundary contest, also, a conspiracy of the Southern men to make the state large with the "ulterior design . . . to insure a subsequent division, by an east-and-west line, into two large states, of which the southern was to be organized as a slave State."⁴⁰ The tendency of American historians today, however, seems to go to the other extreme and perhaps underemphasizes the importance of the question of slavery in these struggles. In his *Establishment of State Government in California*, Goodwin successfully combats the old view. He points out that the larger boundary was advocated by Halleck, Sherwood, and Norton, pronounced Northern men, and the proponents of this measure were pronounced Southern men, like McCarver and Botts. It seems to the present writer that Goodwin's conclusions dispelling the slavocracy conspiracy idea are correct. Nevertheless, who can penetrate the motives of the individual advocates of the large boundary, as, for example, Dr. Gwin?⁴¹

The Proper Time to Put Into Operation the State Government. The other matters considered at the convention which are of interest in this discussion were (1) the question as to when the government established by the convention should begin to function; and (2) the matter of finances. On September 27, Norton, of the committee on the constitution, asked the convention for instructions as to whether the state government should begin to function as soon as the constitution was ratified by the people, or not until "official news is received of the admission of California into the Union as a State."⁴² He then offered a resolution that the "government established by the Constitution shall go into operation as soon as practicable after the ratification of said Constitution by the people."⁴³

When the question was taken up the next morning, Botts took advantage of the opportunity to ventilate his views on the legal status of California. He proposed to discuss "calmly, deliberately, and dispassionately," the doctrine that the constitution of California even after its ratification by the people, "is but the cold statue of Pygmalion until the Promethean heat has been breathed into it by the Congress of the United States." After combating the theory of the *de facto* government and ridiculing the doctrine of international law (that all the laws in force in a ceded province remain in force until they are revoked by the government which had acquired the territory), he undertook to consider the question as to what legal effect Congressional legislation could have upon the

⁴⁰ Hunt, *The Genesis of California's First Constitution*, 49; Bancroft, *History of California*, VI, 291; Royce, *California*, 264-66.

⁴¹ Undoubtedly many motives entered into the boundary contest.

⁴² Browne, *Debates*, 274.

⁴³ *Ibid.*

constitution of California. In the first place, he set out to demolish the doctrine of territorial governments as laid down by the United States Supreme Court, namely, that Congress has full control over the territories and their inhabitants. "It is a slander upon the liberty breathing spirit of the United States Constitution," he declared. Such an authority "contradicts the Declaration of Independence, and disfranchises a people, and reduces them to the condition of serfs and vassals." The clause of the Constitution upon which the opinion of the Supreme Court of the United States in the case of the *American Insurance Company vs. Canter*⁴⁴ was based, he claimed, referred to territory in the material sense, to the public lands, and not to territory in the political sense, denoting the governmental institutions for the inhabitants.

His conclusions were that there was

. . . no existing government in California; that the right to institute one is inherent in the people; that, by the exercise of this right, they can alone prepare themselves for admission into the Confederacy of the United States; that until they become a member of the Union, Congress have [has] no authority whatever to legislate for the people of California, and that, from the moment of its ratification, this Constitution becomes the supreme law of the land, and the government it creates the only one that ought to be recognized in California.⁴⁵

Jones questioned the propriety of immediate action. He doubted the right of a territory of the United States to establish a government and put it into full operation without the consent of the federal government. He was not willing to go so far as to assert absolute sovereignty, independent of the control of Congress.⁴⁶ Snyder said that he was not versed in legal questions, but his opinion was that if their forefathers "had a right to declare themselves independent and establish thirteen States," he thought that the people of California had "a right to establish one."⁴⁷ Norton's resolution was finally adopted unanimously.⁴⁸

Presentation of the State Constitution to Congress. The next question was how the constitution should be presented to Congress. The committee on the constitution proposed that a certified copy of the constitution, after it had been ratified by the people, should be forwarded to the President of the United States, with the request that he submit it to Congress.⁴⁹ Gwin moved as a substitute that the constitution should be laid before Congress by the California delegation which was to request the admission of their state into the Union.⁵⁰ Halleck objected to this novel method of presenting a constitution through the back door. He thought it was bad policy to attempt to "bully" Congress by demanding admission.⁵¹ The idea of characterizing the presentation of the constitution by the California representatives as a "back door" proceeding "jarred harshly" on the ear of Mr. Botts. He resented the method of humbly soliciting Congress to admit the state. He considered the state representatives as "ambassadors"

⁴⁴ *American Insurance Co. vs. Canter*, 1 Peters (26 U. S.) 511 (1828).

⁴⁵ Browne, *Debates*, 274-84.

⁴⁶ Browne, *Debates*, 284.

⁴⁷ *Ibid.*, 285.

⁴⁸ *Ibid.*, 288.

⁴⁹ *Ibid.*, 393.

⁵⁰ *Ibid.*, 393.

⁵¹ *Ibid.*, 393-94.

sent "to treat with another high power for admission into the Union," upon the terms "dictated" by the state.⁵² It was finally agreed that copies of the constitution should be submitted to Congress through the President and the California representatives.⁵³

Financing the Convention and State Government. Of greater importance was the question of financing the convention and the state government when organized. On September 10, Gwin introduced a resolution that a committee be appointed to report a plan to defray the expenses of the state government about to be organized. He contended that Congress was bound to appropriate, out of the taxes collected in California, a sum sufficient to defray the expenses of the new state for several years. He justified this claim on the ground that all the other new states, except Texas, had the benefit of territorial government for a number of years, while California had not received a single appropriation from the general government.⁵⁴

The resolution was adopted and on September 25 the committee submitted a report declaring that the position of California was anomalous. In the cases of the Louisiana and Florida acquisitions, the federal government had established territorial governments, thereby enabling the frontier communities to prepare for independent existence. But California had none of these benefits, although she needed the paternal care of the general government more than any other territory. Hence California was without public buildings or any other works of internal improvement. The committee recommended that Congress should be memorialized to provide for the support of the state government by the donation of public lands, or by an appropriation out of the money collected from import revenues and from the sale of public lands.⁵⁵

The question of financing the convention was also considered. On September 7, Botts offered a resolution that a committee be appointed to report on the "mode of providing for the payment of the expenses of this Convention, and that they report the proper *per diem*" to the officers of the convention.⁵⁶ The resolution was adopted and a committee of five was appointed. The committee corresponded with General Riley in this matter. Riley replied that he was authorized to appropriate money out of the "civil fund" to defray the expenses of the civil government in California, and promised to use the fund to pay the expense of the convention, in part or in whole.⁵⁷ Several days later the committee applied to Riley for the sum of \$70,000 to be placed at the disposition of the convention by the first of October. This the general declined to do, claiming that he had no authority to place the money of the "civil fund" at the disposal of any person. He reiterated, however, that he would pay the necessary expenses of the convention.⁵⁸

⁵² Browne, *Debates*, 394.

⁵³ *California Constitution*, 1849, Schedule Sections 7, 12; Browne, *Debates*, App. XII.

⁵⁴ Browne, *Debates*, 43, 44, 45.

⁵⁵ Browne, *Debates*, 201-2.

⁵⁶ *Ibid.*, 30.

⁵⁷ Riley to the Committee, September 11, 1849. Browne, *Debates*, App. xli.

⁵⁸ Riley to the Committee, September 13, 1849. Brown, *Debates*, App. xli.

On the following day the committee submitted majority and minority reports. Both reports agreed upon the *per diem* allowance, as follows: secretary, \$28.00; assistant secretary, \$23.00; sergeant-at-arms, \$22.00; copying clerks, \$18.00; doorkeeper, \$12.00; page, \$4.00; reporter, \$50.00; chaplain, \$16.00; interpreter, \$24.00; interpreter's clerk, \$21.00.⁵⁹ Halleck thought this allowance was much too high, and he suggested that it be reduced considerably. "Congress will never grant such an expenditure," he declared.⁶⁰ The members of the committee, however, contended that, considering the rates paid for labor in California, the rates set down were not at all extravagant.⁶¹ Snyder contended that the "civil fund" should by right be used for this important purpose. California had a right to demand that it should.⁶²

There was, however, quite a difference of opinion between the majority and minority reports as to the manner of obtaining the means to defray the expenses of the convention. The majority report recommended that the convention should apply to General Riley for an appropriation out of the "civil fund" which was in his possession. The minority report took the ground that neither Riley nor the President of the United States had any power to order any money to be paid out of the "civil fund"; it therefore recommended that the expenses should be paid out of an appropriation to be made by the future legislature. Botts contended that it was beneath the dignity of the convention to "appear at the footstool of any individual, and humbly ask that he should dole out to them such expenses as he deemed necessary." He considered the whole affair connected with the civil fund as "unclean."⁶³

The general opinion of the convention, however, was that it was not the duty of the convention to enter into the question as to whether the President had the power to give instructions concerning the disposition of the "civil fund." It was sufficient for them that General Riley had promised to pay the expenses out of that fund. It was not at all a question of receiving stolen goods. Moreover, there was no better way in which to pay the expenses of the convention.⁶⁴ Sherwood denied that the money in the "civil fund" belonged to the United States Treasury. He contended that the duties had been paid indirectly by the people and not by the merchants, who added the duties paid upon the imported commodities to the price of the goods. Had Congress established a territorial government, and passed laws for the protection of the people of California, then the duties received in that territory would have justly belonged to the United States Treasury, wherewith it might have defrayed the expense of the territorial government. But since Congress had failed to provide a government for California, this money belonged to the people of California, to be used to enable them to carry on their government, to erect public buildings, and to pay

⁵⁹ Browne, *Debates*, 95.

⁶⁰ *Ibid.*, 95, 97, 98.

⁶¹ *Ibid.*, 95.

⁶² *Ibid.*, 96-97.

⁶³ Browne, *Debates*, 99.

⁶⁴ *Ibid.*, 100-4.

other expenses incident to the establishment of a state government.⁶⁵ The *per diem* allowance as recommended by the committee was adopted, and the committee was instructed to make the necessary arrangements with Riley for the payment of these expenses.

Riley, who was convinced that by right the "civil fund" belonged to the people, paid these "necessary" expenses of the convention, though he admitted that the salaries and payments were too high.⁶⁶ It is questionable, of course, whether General Riley acted within his powers. But he deemed his action justified by the unprecedented circumstances.

The convention also discussed the question of the ownership and disposition of the public land. But this will be considered later, in the chapters on the land question. Suffice it here to say that the convention did not overlook the importance of this matter and adopted a land ordinance which authorized the legislature "to declare in behalf of the people of California, if such declaration be proposed by Congress, that they will not interfere with the primary disposal, under the authority of the United States, of the vacant lands within the limits of this State." In return for this offer, Congress was asked to make a liberal donation of land to the state, more liberal, indeed, than had been given to any other state in the Union.⁶⁷

Closing Days of the Convention. On October 12, after some six weeks of hard work, the convention completed its task. The event was celebrated in the evening by a grand ball given by the delegates to the citizens of Monterey. The description of the ball given by a careful observer⁶⁸ well illustrates the life in the frontier communities. The hall was decorated with young pines from the neighboring forest, and lit by chandeliers neither of bronze nor of cut glass. The whole town appeared at the ball. It was Monterey's big day. Very few were attired in dress suits. "Scarcely a single dress suit that was seen belonged to its wearer," hence some had to resort to a liberal use of pins. The orchestra consisted of two violins and two guitars, "whose music made up in spirit what it lacked in skill." They played only three pieces — waltz, contra-dance, and quadrille. But these few pieces they played until midnight. There seems to have been no lack of appetite, for the large supply of refreshments, consisting of turkey, roast pig, beef, tongue, patties, wines, liquors, and coffee was entirely consumed.

On Saturday, October 13, a day of beauty and sunshine, about three P.M., the town, hills, and bay of Monterey resounded with the boom of thirty-one guns, fired at the fort to announce the signing of California's state constitution. As the roar of the thirty-first gun fired in honor of California died away, the convention responded with nine cheers for the new star added to the American

⁶⁵ Browne, *Debates*, 103-4.

⁶⁶ Riley to Major General Jones, October 31, 1849. *Ibid.*, App. xlv. The convention also voted the allowance to each delegate of \$16.00 *per diem*, and \$16.00 for every twenty miles traveled. The president was to receive \$25.00 *per diem*. Browne, *Debates*, 289-91.

⁶⁷ Browne, *Debates*, 467. The ordinance will be considered in detail in the chapter on land grants to the state.

⁶⁸ Taylor, *Eldorado*, I, 158-62.

Proclamation To the People of California

A new executive having been elected and installed into office, in accordance with the provisions of the Constitution of the State the undersigned hereby resigns his power as Governor of California. In thus dissolving his official connection with the people of the country, he would tender to them his most heartfelt thanks for their many kind attentions, and for the uniform support which they have given to the measures of his administration. The principal object of all his wishes is now accomplished - the people have a government of their own choice; on which, under the favor of Divine Providence, will secure their own prosperity and ~~prosperity~~ happiness, and the permanent welfare of the New State.

Given at San José, California,
this 25th day of December A. D. 1849.

(Signed) B. B. Riley
Brigadier General U. S. Army
and Governor of California

By the Governor
H. W. Halleck
Deputy Secy of State

Proclamation of Governor Riley resigning his authority to the Government elected under the new Constitution. Reproduced through the courtesy of Mr. Hugh Wiley from the original in his collection.

Union.⁶⁹ Immediately after the signing of the constitution, the convention adjourned *sine die*. The members proceeded in a body to General Riley's house, where Captain Sutter addressed the general in behalf of the convention, thanking him for the services he had rendered in the establishment of the state government.⁷⁰ Riley replied that he was convinced that the "people have done right in selecting delegates to form a constitution."⁷¹

Ratification of the Constitution and Election of Officers. Before the adjournment, the convention issued an address to the people of California setting forth the views and opinions of the convention and urging the voters to attend the polls and register their votes for or against the constitution.⁷² According to the schedule the constitution was to be printed and submitted to the people for their ratification or rejection at the general election to be held on November 13, 1849. On the same day, all the state officers and representatives were to be elected. The reasons for their haste were (1) that the elections might be held before the rainy season started, and (2) that the state might be represented in Congress as soon as possible. The mere rumor that the convention had decided to postpone the organization of a state government aroused the indignation of the *Alta*.⁷³

On October 12, General Riley issued a proclamation announcing the election and promising to surrender the administration of civil affairs to the Governor to be elected on November 13, should the constitution be ratified.⁷⁴ In accordance with this proclamation, the election was duly held on November 13, the constitution was ratified by a large majority, and the state officers were elected.⁷⁵

On December 12, Riley issued a proclamation announcing that the constitution had been ratified by the people, and he declared it to be ordained and

⁶⁹ Taylor, *Eldorado*, 162-64; Browne, *Debates*, 474. The great seal designed for the new state was symbolic of the new commonwealth on the Pacific. The central figure is Minerva, with her spear and shield, which typifies the manner in which California was born, ripe for statehood without having undergone the usual period of territorial tutelage. At her feet crouches a grizzly bear feeding upon clusters of grapes, emblematical of the agricultural products of the state. The bear is probably to commemorate the Bear Flag republic. In the distance is seen the Sacramento River, and still farther are seen the majestic snow-clad peaks of the Sierra Nevada. Above is the word "Eureka" (I have found) which is partly encompassed by thirty-one stars representing the thirty-one states of which the Union consisted upon the admission of California.

⁷⁰ Browne, *Debates*, 476; extract from the San Francisco *Alta*, printed in Sacramento *Union*, Sept. 12, 1859.

⁷¹ Browne, *Debates*, 476-77.

⁷² Browne, *Debates*, 474-75.

⁷³ San Francisco *Alta*, Oct. 4, Dec. 31, 1849.

⁷⁴ H. Ex. Doc. 17, 31 Cong., 1 Sess., 842-43 (573).

⁷⁵ The vote in favor of the constitution was 12,061; against it, 811. About 1,200 votes were thrown out for some technical reasons. The excuse given for this somewhat light vote out of a population of over 100,000, including about 75,000 Americans, was the inclemency of the weather. Burnett, *Recollections*, 361; Memorial of the California Representation to Congress (Browne, *Debates*, App. xxi-xxii). Peter H. Burnett, one of the leaders of the movement for the establishment of the government, was elected Governor. S. W. Wright and Edward Gilbert, one of the editors of the *Alta*, were elected as Representatives to Congress. Cal. Legis-Journals, 1850, 12-14.

established as the constitution of the "State of California."⁷⁶ Three days later the state legislature met at San José William M. Gwin and John C. Frémont were elected as the two United States Senators,⁷⁷ and the state government was put into full operation. In January, 1850, the Senators- and Representatives-elect left for Washington to ask that the state of California be admitted into the Union.

[TO BE CONTINUED]

⁷⁶ Cal. Legis. Journals, 1850, 45; Burnett, *Recollections*, 359-60. After Governor Burnett was ordained, Riley resigned his power as Governor of California. *Ibid.*, 360. Riley realized that the legality of this course might be questioned, but he considered his action justified by the existing circumstances. Riley to Major General Jones, Oct. 31, 1849 (Browne, *Debates*, App. XLV). The answer of the administration was a semi-approval of his acts, though it was doubted whether such action was legal. "As the arrangements contemplated by you," wrote Secretary of War Crawford, "may already have been made, any instructions from this department contrary to your views on the subject might militate against the peace and quiet of the community, and be productive of evil." Crawford to Riley, Nov. 28, 1849. H. Ex. Doc. 17, 31 Cong., 1 Sess., 281-82 (573).

⁷⁷ This legislature was commonly dubbed as the "Legislature of a thousand drinks," on account of the large amount of liquor it consumed. The candidates for the United States Senate kept "open house," where liquor was distributed freely. Hall, *History of San José*, 220-21.



COLONEL EDWARD DICKINSON BAKER

From a lithograph on the cover of a music sheet entitled "Funeral March to the Memory of Colonel Baker," in the possession of Carl I. Wheat.

"CALIFORNIA'S BANTAM COCK"

THE JOURNALS OF CHARLES E. DE LONG, 1854-1863

Edited by Carl I. Wheat

THE JOURNAL FOR THE YEAR 1859

(CONTINUED)

JULY 1859

Fri. 1, — Spent the day in doing nothing but chatting, gassing[,], drinking Larger Beer &c — Ye God's how I wish the agony of election was over. in the evening went to see the Original Negro Minstrel's but no preformance came off, then knocked around town until late came up to my room, had some music by the boy's up stair's; Dick Wade came in spent the balance of the eve with him

Sat. 2, — Reced two letter's[,], one from Constance¹¹⁹ and one from Elida, both endearing and beautiful; wrote an answer to Elida's done some little political financering Republican's held their County Convention¹²⁰ in the evening attended the Theatre and saw the panorama of the world[,], a splendid affair but a very poor House¹²¹

Sun. 3, — At Home done nothing of any account found that the Republican's had nominated a full ticket; Cunningham for the Senate;¹²² thing's look pretty dark in the future; wrote a letter to *Constance*; the night pretty windy and quite cool; stopped a row amongst some of the boy's. — Saw Judge Sexton¹²³ and McCorkle; thing's politically look pretty rough and disagreeable not only for myself but for my party. I heartily wish it was all over and I was out of politic's

Mon. 4, — Spent nearly all day in my office; wrote some rained a little during the day received a letter from Ella and Katie; of Illinois. very dull day in town all gone out to Washington Grove to a barbacue¹²⁴ had not one cent, nor did not spend one during the day; John Collin's came down; ran around town with some fellow's on a spree during the evening went up to Mat Wood's and witnessed the fire work's, the dullest and most disagreeable 4th I ever spent; *thought of absent one's*

Tue. 5, — At Home all day called on Miss Pierson¹²⁵ for awhile in the morning; spent a dull day; in the evening the Warren Engine Co held a meeting; and elected officer's; Jos McKibbin and E D Baker made a speech; Zack Montgomery followed with a howl; and Baker followed and lashed him; and then he repeated.¹²⁶ The day pretty warm.

Wed. 6, — Took the boat for Sacramento with McKibbin and Col Baker; had a political war talk with Baker on the way down;¹²⁷ he finally urged me not to withdraw, offered to assist me pecuniarily & politically; and in legal business. Arrived safe; Met "*My Camille*" and enjoyed myself hugely; all thing's right spent the evening at home — Miss Clara and Mr Tucker on hand and all thing's fine went out and played billiard's with Glover.^{127a}

Thu. 7, — State Central Committee met to day & transacted some business,¹²⁸ nominated Edmund Randolph¹²⁹ for Atty General; and J H Jewett for Treasurer; saw Broderick, wrote to Baker; spent the balance of the day at home enjoying myself as usual in the usual way — in the evening set out on the balcony and had an old fashioned time

Fri. 8, — Met again with the Committee, made out a lot of appointments; received a telegraphic despatch from Baker assuring me of his friendship and bidding me hold on. went up and saw Elida's old home; called on Gorman; got "Camille's" dauguerreotype; had a good time, a plain talk[,] crying &c, my bed *came down in the night*. Saw Bill Cook; — spent the evening with Glover, had some singing on the balcony

Sat. 9, — Got on board of the boat just in time came up and had a dull time of it. made the acquaintance of Mr and Mr's Palmer from Poughkeepsie, on their way to Long Bar; found all the boy's in good spirit's with the exception of Jewett's; Resignation. took supper with [name blurred] saw Collins, and the rest of the boy's; also M S Latham & Cutter, on their way to Yreka the weather very cool.

Sun. 10, — Done nothing of any importance during the day. read some and made a little preparation's for going out into the canvass. in the evening called at Judge Singer's; and passed a very agreeable evening. the day and the evening very windy and quite cool.

Mon. 11, — Put in to-day in rather a worthless style; done a little business; wrote a challenge to Watkin's to be published to-morrow; challenging him to stump the County with me;¹³⁰ talked politic's and planned some; and in the evening wrote to Baker, Mr Jackson and Ella. — Windy & cool this evening but warm during the day Met Anna on the street went home and had a long talk *explanatory*

Tue. 12, — The day dull and dully spent My challenge to Watkin's excited some attention; done no business much; reced \$20.00 from Wahl gave Charlie Beckwith \$10.00 for Slingerland, Saw Anna and Ada on the street; had a little meeting in the evening and appointed Finance Committee's and c for the Broderick Meeting on Thursday

Wed. 13, — Spent another day almost in uselessness Attended to Isaac Sherman's case in insolvency got the Sheriff appointed Assignee &c. Sam Keaton (one eyed Sam of Dutchess) got married to Charlie Ellisse's woman; and took possession of the Park;¹³¹ a lot of us went out and took some wine and McGee & I walked back; had a little meeting in my office relative to Broderick's arrival *The memorable 13th* thought of the 13th of March & absent one's Stood under the little Tree at Mat Wood's & thought of Elida beautiful eve

Thu. 14, — During the day I done nothing particular in the evening Broderick & McKibbin spoke; Broderick done poorly; repeating his Placerville speech; Mc done well; after they were through I was called upon; and spoke about 1 & ½ hour's acquitted myself to the satisfaction of my friend's; a large crowd and a good many ladie's present. I received many congratulation's¹³²

Fri. 15, — In the forenoon called on Broderick and McKibbin at the Merchant's, had a long confidential talk with Broderick, he thought my chance's slim and the Republican's my bitter enemy's. he promised to help me in business if he could. reced and answered a letter from Octa; called in the evening at Judge Singer's; found that Annie had gone below, and staid until late with Miss Ada alone. wrote to Octa

Sat. 16, — Done nothing of importance to day. found that I had made many friend's by my speech; and heard good new's from Timbuctoo when the boy's returned have st[r]ong hope's for the future. reced a letter from Randolph, and answered it. Wrote letter's to all of the candidate's requesting them to meet here on the 26th wrote to Beaman and Billy Foye.

Sun. 16, — Did not get up until noon, owing to ha'ving been out at a fire during the night done nothing during the day, but read and help assort the mail in the Post Office. — in the evening took a walk Came down to the ice cream saloon with King and Julia; wrote to Earl of Red Bluff in answer to his letter to McKorkle. — Hulburt came down and called at my office. brought good news from Timbuctoo politically.

Mon. 18, — The day as usual was spent quite uselessly; done some writing and a little advizing; Fairbank's and others were down here. in the evening went [Crossed out:] up and called on Miss Ada Singer; found that Annie had gone to Sacramento. had a long condential talk with Ada. to hear Denver & Clayton Speak¹⁸³

Tue. 19, — Nothing much doing to day; attended Court a little while during the forenoon done some business and some writing and in the evening got on a little round with the boy's; Old Gwin had arrived in Town and they were ridiculing him

Wed. 20, — Commenced a suit in Justice's Court advised in several other little case's Dr Farley & Roger's of Sweetland's Crossing were here and I attended to some business for them. Slingerland & Dr Grove's came down; spent the evening until late with Jim in having one of our regular old fashioned long talk's about women[,] love &c; and both arrived at the conclusion that we were mugginse's

Thu. 21, — Was busy in my office all day; business assumed a very encouraging aspect. Jim was here during the day; and in the evening he and I went to the Judge's; but he soon left and I remained and set out on the piazza with the girl's and we talked everything. — Had a first rate time I feel that I am in danger and must no more play with my fate or affection's

Fri. 22, — At Home all day busy in my office. Commenced suit for H H Witte v's S C Tompkins and A J Haun for \$55 66/100 and drew up paper's to commence suit for Grove's vs Walton & Walton for \$1437 10/100, by attachment. — Rowe attended to a little suit before Singer, and I called at the Democrat Office to challenge Latham to a discussion. in the evening called on Nelly Wood's, and postponed sale in case of Brady vs Rice until Tuesday.

Sat. 23, — Attended a Constable's trial of the right's of property for P OConnor vs Dun during the forenoon and in the afternoon done some reading,

reced Congressional Globe's from Mr Broderick. — The Democrat challenge[d] Latham to debate with me, on next Tuesday Eve.¹³⁴ in the evening called at Judge Singer's and spent the evening Ada was sick in bed.

Sun. 24, — Went out in the forenoon to Tom Taylor's and staid most of the day with him and his lady; and then returned to town. In the evening took a little walk with Slingerland and then went around to the Judge's with Slingerland. found Ada very sick; did not remain long, came down town played some billiard's &c —

Mon. 25, — At Home all day done a little office business got the summons in the case of Pierce vs Reeve's ordered published. — found myself soundly abused by the Express for my challenge to Mr Latham.¹³⁵ felt a little dull all day, in the evening remained home, with Jim.

Tue. 26, — Commenced suit to day in District Court for P OConnor vs W H Chapman Const[able] for Barley & Wheat. Had a meeting of our County Candidate's, and laid out plans for the future; mad[e] some appointments with Lawson to go out stumping, to start on Friday. in the evening Latham and Burch spoke, a large meeting and the speaking good; but no chance given me¹³⁶

Wed. 27, — Spent the day at home, Snyder made some proposition's to me relative to my drawing off and receiving a re-nomination from both the Republican's & Anti Lecomptonite's, I refused but promised to consult with some of the party and see him to-morrow in the evening called upon the Miss Singer's, and spent the evening, remained until late, when Dupre & the Judge came home, parted with a neat little embrace and a kiss; *the first one*¹³⁷

Thu. 28, — Spent the day at home getting my trap's ready for the campaign done no business much — in the evening called on Nellie Wood's and spent a hour Came down town and played billiard's with Sharkey until late. reced \$140.00 from Bliss, leaving \$300.00 of mine in his hand's. paid Rumny[?] \$20 & Moore \$20 Reced \$30 in fee's from Brady & paid it to Jim making us square.

Fri. 29, — Staid in town until noon, and then started out on the *War Path* with Jim went up to Sand Flat.¹³⁸ in the evening had a small meeting. Hatch¹³⁹ unexpectedly followed me & he with McQuaid¹⁴⁰ succeeded in breaking my meeting up unfavourably felt lonely and down-spirited bad break to commence on. — *thought of Octa* determined to play for even.

Sat. 30, — Went up & crossed at Park's Bar, & went down to Long Bar; run around nearly all day with Simmon's & other's; in the evening had a very large and attentive audience acquitted myself to my entire satisfaction All the hound's were after me but I froze them out & none of them got a chance to speak. went to a rough dance after the meeting & remained until late.

Sun. 31, — Went up in the morning to Chimney hill¹⁴¹ and dined with Evan's & Long. laid some plans. then came up to Park's Bar, and took tea at the Col's [Col. Whiteside] with Molly McQueen saw the boy's had a good [time] picking flower's with Molly. stole a kiss or two; pretty good for first sight. After dark came on up with Jim to Timbuctoo and staid all night with Hubbard.

AUGUST 1859

Mon. 1, — Went up in the claim's & knocked around during the day; and in the evening Lawson & I spoke; neither of us done well took a walk with Mr Parry, and was met by some Sucker Flat boy's & went with them over to a dance at Maurie's. had a pretty good time staid all night with Peter Kerrigan

Tue. 2, — Came up in the morning to Smartsville and remained until noon. then came down to Mr Parry's & spent the afternoon had a pleasant time with him and his partner's Messr's Evan's & Bishop. then ran around the Hill with George to see some of the folk's. found more friend's than I expected. feel some hope. staid all night with George.

Wed. 3, — Arose in good season and went down to Timbuctoo; then came back to Smartsville and took supper with some Ladies at Mr Stacy's, Saw Lawson's wife then went down to the Flat a very large meeting assembled and I cut myself loose; I done first rate and the crowd cheered me lustily I pleased my friend's very much; I then came up and staid all night with Parry & Co

Thu. 4, — Started in the morning for Graham's Ranch,¹⁴² found warm friend's all along my road; stopped at the Empire; [and later] at Mr Vineyards and Made the acqu— of Miss Virginia; *devillish good looking*;¹⁴³ came to the Round Tent;¹⁴⁴ saw Mr & Mr's Slater; who were very friendly; also Mr Ackeman of N Y; came to the Ranch[;] found Mr's Graham very kind, also Stoddard; helped kill chicken's & pick corn for supper

Fri. 5, — Rode all around the Bear River country with John Cameron, went to Camp Far West,¹⁴⁵ & Albion¹⁴⁶ electioneered in all the cabin's and at Albion where there was five white men living with squaw's and a negro and playing poker. Spoke in the evening to a crowd of about fifty made a good speech; came over to Graham's and remained all night suffered some with my lungs. Ackley joined us.

Sat. 6, — In the morning went to Findlay's & remained all day. spent a dull day not feeling very well was followed from McDonald's by Love & Hall. in the evening spoke to a small crowd but made some friend's. was introduced to the Misses Findlay, Lyn, & Miller; had a very pleasant chat with them; and obtained from them the promise of their influence.

Sun. 7, — Started early from home, Stopped a short time and saw Slooman; came on into town. reced letter's from Burn's, Elida, Ella & dauguerreotype[;] also Mr Earl, and some other's. felt cheered by their contents, determined to wage war still more bitterly. in the afternoon called at the Judge's and spent a pleasant afternoon. Spent the evening at home the day warm.

Mon. 8, — Spent the day at home wrote some letter's reced one from George Parry containing some important political information answered it. in the evening called up and saw the girl's. saw Isaac Allen I feel sure as if I stand this evening upon a social & political volcano, but I trust to my luck.

Determined to go down to Sacramento to-morrow to see what is the matter with Constance.

Tue. 9, — Arose early & took the boat and went down arrived and found Mr Glover very unwell; everything else looked pretty fair. saw Octa but only for a few moment's. in the evening attended Broderick's Mass Meeting thousand's of ladie's and gentlemen present.¹⁴⁷ the New World from San Francisco came up crowded.¹⁴⁸ left early and came home and went to bed . . .

Wed. 10, — Got on board of the Gov Dana and came up home; Hite, Mandeville¹⁴⁹ & Solomon were on board; arrived safe. in the evening called on Sister Ada¹⁵⁰ and spent a very pleasant evening. Annie & the Judge were gone up country, electioneering; staid with Ada until Mr's Hunt came to stay with her; did not know before she came but what I should have to set up all night with her

Thu. 11, — Remained in town preparing for another tour until after dinner[,] then started out alone; Met Judge Singer and Annie at Zabriskie's, had a long talk with them found Zabriskie very angry at the Board of Supervisor's for moving his precinct. Came on up and staid all night at Taylor's went in & saw Miss Stanfield & Mr's Taylor. stopped awhile at the Peoria House & saw Miss Josephine & Miss Gordon

Fri. 12, — Came on up stopped at the Oregon House. saw Pete Rice, he was as mad as a hen because they had moved his precinct. Came up to Indiana Ranch Saw Cannon, Labadie; & other's. then went over to Dobbin's & McMenomy's Ranch; saw their Sister's & John Gardiner; then came over to Oregon Hill & found a large crowd gathered to hear me; spoke alone in Edgar's Hall done myself justice & pleased my audience; slept all night with Sharkey. [Brother] *Jim's Birthday*. 33

Sat. 13, — Remained on the Hill until in the afternoon found that I had a host of friend's here went down to Pepper's Ranch with Collin's Started for Foster's with Flattery arrived there & took supper; Met Judge Singer, Lindley[,] McCarty, Slingerland[,] Chapman, Farley & other's had a fine meeting several spoke after me went to a Hurdy Gurdy dance, had a good time found my prospect's here first rate thought of my past, and of the absent.

Sun. 14, — Went up to Long Bar with the boy's; saw number's of the old boy's; the Frenchmen very friendly; *all for De Long*; came down and at noon saddled up and went over to Clay's with Singer & got Dinner. then went out in the garden & had a long ramble with Hattie *stole a kiss or two*.¹⁵¹ Came on up to Young's by the Notoway.¹⁵² Arrived at Young's thing's looked a little blue; eat supper with Geo Allis, and slept with Jim [Slingerland] —

Mon. 15, — In the forenoon went over to Galena Hill with Bob Logan; went down on the creek & saw Beaman; found him true as steel. — travellled up the creek by McCafferty's to Young's and remained there during the day and over night, thing's look pretty well. Staid all night with Dick Wade in his cabin. the boy's went over to the Elephant show with the Ladies



VIRGINIA VINEYARD

Daughter of William B. Vineyard of the Oak Grove and cousin of Elida. See entry for August 4, 1859. From a daguerreotype in the possession of her brother, William B. Vineyard, of Marysville.



ELIDA VINEYARD

From a daguerreotype in the possession of her daughter, Mrs. Maude De Long Pringle.

Tue. 16, — Went to Oak Valley & down on Slate Range during the day; found thing's looking well. Kissed the bride of Si Godfrey. walked up the hill home; spoke in the evening and was followed by Singer we spoke in the Town Hall. some ladie's present and a large crowd of men. I done my work up brown and the boy's had a devil of a spree after all was over, went down and stopped all night with Dick Wade & Bob Logan, slep three in a bed

Wed. 17, — Got up late feeling quite unwell; came over to Galena & Camp-tonville, with Judge Singer. in the evening had quite a large crowd, I spoke first[,] Bryant next & Singer afterward; we did not none of us do very well; McQuaid followed in a personal & abusive speech[;] Bryant closed and the meeting then dispersed. thing's looked pretty well, and if I can only get the Welsh vote I think I am all right¹⁵³

Thu. 18, — Remained in Camptonville nearly all day, found many warm friend's and have high hope's; felt very sore & stiff. in the afternoon saddled up and started with Slingerland & Singer for Hess'es Crossing on the way down became displeased at Singer spoke to a very fine little audience in Freeman's found them nearly all our way.¹⁵⁴ Singer went on to San Juan. I returned to Young's Hill with Jim got home about 2 Oclock in the night.

Fri. 19, — Arose rather late; after dinner started with Bob Logan and went to Galena, Camptonville and Rail Road Hill, after supper at Young's, left for Slate Range, left Hall[,] Hugg & Shirkland; at the Range met Hatch[,] Watkin's & Wickersham; challenged them all, addressed a nice little crowd of friends, some spoke after me, but I had the crowd, staid all night with Jim at Findlay's

Sat. 20, — Left the Range pretty early and in company with Jim went up Hell's Hill¹⁵⁵ to the Buck Eye;¹⁵⁶ picked plums &; found Lizzie Swain[,] Mr's Robinson & Shepperd at the Ranch also Col Baker; spent an agreeable day; in the evening went down to Eagleville and addressed a nice little crowd; no one spoke but me, and I made a good long speech and about the best one I have made;¹⁵⁷ returned to the Buck Eye. —

Sun. 21, — Spent the day at the Buck Eye Ranch Had a fine time with the ladie's whilst Jim Baker, & Bracy were out riding obtained some sweet kisse's from the charming Miss S— and in the evening had a nice little dance in the dining room; Baker playing the fife.

Mon. 22, — In the forenoon went up to the Winthrop House with Baker & from there up to the American House with Wm. Farron; came down to the Buck Eye & with Jim started down again passed through Eagleville, took supper at the Seneca House, spoke in front of Berry's Saloon to a fine little audience most of whom were from Eagleville;¹⁵⁸ put up at Capt Ferguson's, and had a fine time

Tue. 23, — Started from the Valley pretty early; came down to Forbestown & took dinner; came over to Ohio Flat, found that my poster's had not arrived. Mr Eddy & John travvelled around the country & collected a fine meeting for me at New York Flat. spoke in the Ball Room, made a good speech & done

some good. Came back home had a little dance and afterward set up a while with my *charming Mary*; —

Wed. 24, — In the morning wrote to some friend's and then started for the Indiania Ranch with Jim took dinner at Brownsville; and after visiting several saw mill's, made the Ranch about dark; had a small dull crowd Sile Atchison chairman; made them a pretty good speech; and then about 11 O'clock started for the Abbott House got there at 2 O'clock put up our own horse's. eat supper and went to bed.

Thu. 25, — Arose late, and started for Town took dinner at Zabriskie's; and then came on into town. found thing's here in statu-quo; our men quite inactive but confident. brushed around and got cleaned up and then went up to Judge's; found all well & kind. reced a letter from Elida enclosing one from McMurray to her Father Old Singer & Luke O'Brien had a fight

Fri. 26, — Spent the day in town had a meeting of our Candidates transacted some business and laid some plan's. Fall, Bliss, Tom Taylor & Dick Erwin at work for me like thunder. reced a letter from George Parry; made some appointment's to speak, and in the evening bought some dud's, Collin's, Murphy & other's in town working for me. —

Sat. 27, — Went out in the forenoon with Jim in a buggy to Mr Cornells & took dinner, then went up on the Honcut to Sewel's [?] Ranch,¹⁵⁹ met More[,] McCarty & Singer. spoke just at dusk. took supper & then we all came down to the Honcut House,¹⁶⁰ & I there spok for two hour's to a large crowd and done well; returned home after dark, got lost and had a devil of a time felt very unwell from the pile's

Sun. 28, — Spent the day in bed feeling very unwell, during the day and evening had a good many call on me, passed a miserable day.

Mon. 29, — Passed another miserable day. in the evening went out with More & took supper at Zabriskie's & then came down to Brigg's Ranch,¹⁶¹ and had a meeting More[,] McCarty & Singer & myself spoke, turned out well, Brigg's and his men gave three cheer's for our ticket came into town feeling like thunder & went to bed very sick.

Tue. 30, — Spent the day in bed, had Dr Teed¹⁶² tending on me; disappointed my meeting at Wing's House owing to my sickness.

Wed. 31, — Still straightened out in bed and cursing like a chained trooper.

Feel as blue as thunder, different storie's flying about. number's of my friend's called to see me during the day and evening

SEPTEMBER 1859

Thu. 1, — Still in bed, spent the most of the day in writing wrote to Elida, Lytell, and Constance, "*My Camille*" done nothing else much during the day. —

Fri. 2, — Got up in the morning although still quite unwell; went up to the Pavillion & over to the fair ground saw the stock and racing. was introduced to Horace Greely in the Pavillion, called on him during the afternoon.¹⁶³ took Miss Annie to the Opera, saw the Bohemian Girl.¹⁶⁴ after the

Opera went with Ridge¹⁶⁵ to see Greely spent the evening there & had an interesting chat; political & otherwise¹⁶⁶

Sat. 3, — During the day I ran around town electioneering some. spent the most of the day at Singer's, wrote a card for him in defence of the attacks made on him by Spaulding & Dun.¹⁶⁷ had a good time with the girl's, giving & receiving some lock's of hair. — in the evening made a speech, was followed, by Singer & Wheeler. — Cofforth [sic] and Whitesides spoke at the St Nicolaus against me I had the largest & best meeting.¹⁶⁸

Sun. 4, — Went out to the Honcut in the afternoon with McCarty, and spent the day. thing's there looked well; came home after dark. found the Republicans boiling. new's came that Mr Booker had withdrawn¹⁶⁹ had a devil of a time first in trying to get our men satisfied and then the *Pub's* [Republicans] finally arranged it, the Republican Co ticket withdrawn, and we printed Baker's name on our's.¹⁷⁰ then went and had an oyster supper

Mon. 5, — Spent the forenoon in town; received 150.00 from Fall. Saddled up and started for Long Bar at noon, stopped awhile at Adriance's, and then went on up. Spoke in the evening at the Town Hall. had a large assemblage did not make a very good speech run around town a little after it was over and then turned in

Tue. 6, — Left town in the morning and went up to Timbuctoo and Sucker Flat Spoke in the evening at Murphy's and had a splendid meeting have strong hope's of success staid all night with George Parry.

Wed. 7, — Still unwritten Sept 4th eventful page; July 4th I wonder what I will record¹⁷¹ Went down to Timbuctoo and spent the day hard at work. Carried the town by 39 majority, went over to the Flat in the evening and helped canvass the vote's set up all night. Carried the flat by 138 majority, ran 2 ahead at Lander's Bar. felt very much like a man elected.¹⁷²

Thu. 8, — Slept most of the day at Parry's all hand's very sanguine of my success. in the evening came over to Timbuctoo with Parry, and heard such ugly report's that Parry cried. came on down to Marysville found that our whole ticket was beaten slick & clean. some little hope's left of me; but very slight. guess I am gone in;¹⁷³ *Go it Lemon's*.

Fri. 9, — Blue look's and despondent heart's the order of the day. Spent most of the day at Singer's the girl's feeling bad indeed and the old man awful; had some larger [lager beer] and tried to cheer them up. — in the evening had a little meeting of the boy's in my office had some cocktail's done some tall swearing &c and then went to bed.¹⁷⁴ Collin's remained with me. Attend[ed] the funeral of Simpson & Sherwood turned out with my company in uniform¹⁷⁵

Sat. 10, — Spent a portion of the day in the Court Room listening to the examination of the Turner's and Thomas, charged with murdering Simpson in the evening the Lecomp's had a grand procession &c in honor of their victory attended the opera saw Cinderella preformed,¹⁷⁶ — After that went up town with Lute More and saw *Kate Wagner*. — came home late.

Sun. 11, — Attended the Catholic church in the morning with John Collin's and went home with the girl's. — In the evening went around and spent the evening with them. got Ada to give me my first lesson in chess. was called on by Dr Warfield who was on his way down to the State Fair¹⁷⁷

Mon. 12, — Spent the most of the day in my office; pasted up my scrap book's[,] fixed up my letter's and made general preperation's to go to work in earnest — in the evening went to see the Senorama pretty much of a fizzle;¹⁷⁸ the boy's very blue. a great many going to the State Fair. — reced some letter's and wrote some. —

Tue. 13, — Spent the day at home; dissolved partnership with Rowe, dated it yesterday.¹⁷⁹ attended to some little business matter's. first case was against him — heard of Broderick's being shot. great indignation manifested on the part of our friend's;¹⁸⁰ in the evening accompanied Anna & Ada to the theatre to see the Sceneorama; returned home with them staid until quite late feelling very blue. came down talked until late with Rice; and then went up and *stood under our tree and thought of the past & the absent*

Wed. 14, — At work all day in the office busey. got up early and attended a little case in the Recorder's Court. during the day drew paper's and &c in case of Speckle's vs Merrill, and Winne vs McKeebe & Co. — great excitement all day about Broderick. in the evening done some writing, and reced letter's from Parry & Burn's. — had some street preaching opened book's of my own; *new line*

Thu. 15, — Spent nearly all of the day in my office, a blue day at that. reced \$50.00 from George Parry & sent it back to him. Broderick still very low. had a fine little rain during the afternoon & evening. had a meeting of our fire company, transacted some business and selected Harry Leland as our Candidate for chief.

Fri. 16, — Done no business during the day. — *Broderick Died!!* immense sensation created by the new's. flag's half masted and bell's tolled. our men hung their head's and paced the street's in sullen silence.¹⁸¹ — got ready to go to the Bay but gave it up on ac[coun]t of business. spent part of the evening at Judge Singer's had a pleasant time as usual.

Sat. 17, — Tried the case of Speckle's v's R R Merrill and won it. then made up to go with More & Capt Campbell to the funeral¹⁸² got ready and started on the 4 O'clock stage. before going walked up home with Annie. — Arrived safe about 11 O'clock put up at the Union¹⁸³ and were obliged to sleep in the billiard Saloon. I slept on a billiard table. State Fair time's.¹⁸⁴

Sun. 18, — Went down and obtained a room at the Casco for us all. Campbell returned home; More remained. found all of the folk's well and very kind. in the evening had a lonesome time; the folk's gone out of town. Went up town and saw the picture's as well as we could for Sunday. More started for the Bay. boat got injured and returned.

Mon. 19, — Still at the Casco; the folk's returned about noon. found all agreeable and fine. went up to the Pavillion; and out to the Stock ground

[From a Photograph by SELLECK, being the only one ever taken from life.]



THE LATE HON. DAVID C. BRODERICK, UNITED STATES SENATOR FROM CALIFORNIA.

From the "California Police Gazette," of September 17th, 1859.

Friday, Sept. 16th, '59, at half-past 9 A. M., David C. Broderick, a Senator of the United States from our State, died from the effects of a wound received in a duel, fought on the day morning last, with David S. Terry, formerly Chief Justice of the Supreme Court of California. With the manner of his wounding we have nothing to do; the daily press, in their various opinions, have given many different accounts in regard to it, and to them we refer for the particulars of the duel; our task is merely to speak of a fallen hero, a good man gone to his rest. For days previous to his dissolution, the countenances of the whole people told us that we were feeling the wounded man, and the groups of sad faces at all points in the city showed the intense anxiety for his welfare. His hopes, however, proved fallacious, and while the bright sun was shining over our beautiful country, while everything in nature was arrayed in loveliness, and while a multitude of eager doctors were awaiting the results of the efforts of physicians, the spirit of the great man, self-made leader of senates, the warm friend, truthful and magnanimous antagonist, passed

from the body and took its silent flight to the great unknown world of space. Not only does a State mourn for its champion and defender, not only does the population of the Pacific slope wail for the loss of its favorite, but a whole confederacy—a whole people, are full of sorrow and regret for his death. As was said of another, "The heart of a nation is throbbing heavily at the portals of his tomb."

For years, Mr. Broderick has battled for principles which he considered right, and of late he has exerted all his strength of mind and body for the advancement of those principles. Just having ended a political campaign with credit to himself, and full of high aspirations for the future, he has been cut down in the prime of his life, and all his hopes and fears are now as one.

Cold in death, the body, which formerly contained a mind such as only a God could create, lies calmly awaiting whatever disposition is chosen for it. There will be parade and pomp and a gathering of multitudes, but will these indemnify us for the loss we have sustained? Will the funeral ceremonies do ought toward healing the terrible wound in the body politic

No! for such a man can never have his place filled, he will always be missed. When occasions of this kind are forced upon us, we feel too deeply the great effect, and years will pass before the sacrifice will be forgotten. Time cannot entirely obliterate it, and the memory of the people will cling tenaciously to the circumstances. For our State, we are sorry. The shock sustained in consequence of this last terrible act will have a tendency to injure it deeply. We have, from the first days of California, been more or less stained with the blood of our people, and the efforts of the cooler portion of our community have been unsuccessful as to the prevention of these foul blots. One after another of the damning consequences arrive, and California is forced to recede instead of advancing in the paths of civilization. When will we cease to be so terribly scourged and take our place among the enlightened of the age? If not soon, we will cease to exist as a people, for strife and bloodshed will annihilate us. Let us hope that a better spirit will hereafter prevail, and let us also hope that the successor of Mr. Broderick will be as honest and upright in the discharge of his duty.

From Broadside in the possession of the California State Library (reduced).

with More. then came home and remained during the remainder of the day. had a flying visit as usual. in the evening very late More returned. — all thing's in the line down here look very well

Tue. 20, — Done nothing of importance during the day. remained about home and had a good time generally. in the evening was again visited by my angel, and afterward went to the Pavillion to meet her and her better half but missed them. then came back and after having a little singing in the parlor I retired.

Wed. 21, — Went over to the encampment with the "soger's"¹⁸⁵ remained until noon. came home; and went out to the race ground with Mr Dunn, Miss Julia & "*me Dulcie*."^{185a} saw several races—Limber Jim vs Dan Webster; & Shot vs Tom Maguire. also saw the ladies ride. All poorly done¹⁸⁶ then came home retired as usual was interrupted by G H Beach who came knocking. . . . went up town

Thu. 22, — Went over to the Encampment Came back home after seeing a very fine drill. got caught in a kissing scrape — had fine time's during the day with the ladie's[:] Mrs's Chesley, Thoma's, Swift, Long, Pixley, Glover, & Miss Ayer & Wood's. — in the evening went through our good bye scene; & it did seem as if it was a farewell attempt of life. — after that we had dancing & singing & finally Bryant, Henry Beach & myself got tight, & so went to bed

Fri. 23, — Got up early snatched a hasty cup of coffee and started for Marysville on a Express wagon with Harry Leland, Jake Bellrude & other's. had a long and tiresome ride. got in town about 2 Ocl *quit the use of tobacco, tea, coffee &c.*¹⁸⁷ felt very low spirited & nervous, and went up to Judge's. left early feeling a little unpleasant at their remark's & manner of reception

Sat. 24, — At home all day felt very nervous and discontented run around town; watched the mason's work on the Prespyterian Church for awhile;¹⁸⁸ then came home. read and wrote some. done nothing to amount to anything and retired

Sun. 25, — Felt nearly the same degree of nervousness, and somewhat unwell wrote a number of letter's, To Father, Ella [and] Elida, sent Photograph to Polly, and several paper's to different one's containing the election result's. — in the evening went around to Judge's, went out walking with Annie walked nearly all over town, returned home, had a long, confidential talk; the old man & I talked of Olympia¹⁸⁹

Mon. 26, — Reced my first fee to day \$25.00 of Mr Eckle's, settled my board bill. done some reading. wrote a letter to Sister; and obtained the 11th Volume of Report's & commenced reading it;¹⁹⁰ — Some Emigrants arriving in; Presbury gave me thunder about thinking of leaving for Olympia.

Tue. 27, — Spent the day in town, settled my board bill up to the 23rd. Attended to business pretty busy. had a long talk with McKinney, who is our client on his trial for the murder of Rice Concluded to plead insanity; and set to work to get ready for the fight. — Attended to getting out paper's for

Grove's. — in the evening went up to Singer's. had a talk with Annie about *my marriageable condition*,¹⁹¹ played fox & Geese, &c —

Wed. 28, — Spent nearly all day in my office reading authorities and preparing case's. Read a portion of Douglass'es letter in Harper's.¹⁹² — reced and answered a letter from George Parry. reced J H Dickey's Bounty land warrant & wrote to him about it. — also wrote to Morgan about his case of Crim[inal] Con[versation] —, in the evening had a false alarm of fire and a short run came back and wrote & read until 11 Oclock

Thus. 29, — Arose early took a good long walk came back and half wrote a letter to Elida, then went around to the Station House. nothing doing remained in my office during the day busy in preparing case's. gave a written opinion to Snowwhite & Sutter relative to their deed of Hock Farm.¹⁹³ In the evening Allen, More, Jake Bellrude and I went all around to the hell hole's and saw all the sight's.—

Fri. 30, — Had a day as usual[,] nothing much doing. run around a little went up to jail awhile; saw them work on the church awhile; and done some little business in the office preparing cases &c. — in the evening run around town some. went up to Judge Singer's with Jim Hitchen's, went out and had a long walk, and a long confidential chat with Annie

OCTOBER 1859

Sat. 1, — Done about the same kind of a day's work to day. Kellogg came in and we had quite a time on a settlement. he gave us his note for \$80.00 and paid me \$20.00 on it. — found that the Express had given me a slap back, and I returned the dose—in bitter style.¹⁹⁴ In the evening electioneered some for Harry Leland for Chief Engineer Owen's spent some time in the office with me

Sun. 2, — Attended the Catholic Church in the morning and heard M Slatery deliver a discourse upon duelling. quite good and very bitter walked home with the Mayor's daughter's¹⁹⁵ in the afternoon studied a little law and looked up some authoritie's, wrote a letter to Octa, — and then in the evening went with the Mayor up to his home and spent the evening. had a pleasant time as usual.

Mon. 3, — Drew up a mortgage for John Atchison on the Sierra Nevada Mountain Lake Water & Mining Co for 3000 lbs Sterling, kept on the street nearly all of the day[,] armed and expecting of fight with Linchicum the Editor of the Express. — in the evening had a fireman's election. our Co got beat. Welsh elected Chief;; Curtis 1st Assit. & Barbee 2ed¹⁹⁶ — had a false alarm and a run. *Wrote to Stephen A. Douglass*¹⁹⁷

Tue. 4, — Policeman Campbell came and awoke me to attend the Police Court and defend Herrick alias Spencer of N Y — for Petit Larceny; Court ajourned before I got there. during the day done some business commenced a suit with Rowe in the Sutter Dist Court[,] Allison vs Kempton. reced \$50.00 retainer paid tailor \$20.00. Had a meeting of the Co Leland

resigned, & Pierson elected in his place. Lassiter elected 2ed. called at the St Nicolaus with Singer & Ada on Mr's McGowan & Clara

Wed. 5, — At home all day. done some little business in my office but got no new cases nor took in any cash Copied some paper's; helped take testimony in case of Wahl vs Keiser; watched the workmen lay brick on the Prespyterian Church and John Keller's Store. Staid at home and studied all the evening had a false alarm of fire and a good run. Came home and worked until time to go to bed. — reced a letter & paper's F— G Parry

Thu. 6, — Spent the day at home. was retained by Stoddart to defend a little case before Ashford on next Saturday — also by some hired men of George Brigg's, to attend to some business for them. — In the evening went up to Singers had a moment alone with Annie. She pinned me close to get me to say I did not love Elida, and some other thing's — She did not succeed¹⁹⁸

Fri. 7, — Felt dull[,] blue and unwell during the day. did not do any business of any consequence; advised some men relative to their business but charged no fee. — Called on Mr's Rice with McKinney's note against her dead husband. in the evening and twice during the day attended the gymnasium¹⁹⁹ and had some heavy exercise — had a false alarm of fire during the evening.

Sat. 8, — Had a pretty busy day. Attend[ed] Court, before Ashford for Stoddard and obtained a change of venue. Commenced a suit for John McLaren vs H T Hutchinson in Dist Court for \$885.34, gave advice in several other matter's and reced a letter from Elida. went up into Heath's Gallery with Annie and looked at the picture's.²⁰⁰ Attended the gymnasium in the evening and wrote to Lide

Sun. 9, — Remained at home until evening then went to Judge Singer's and found he had two letter's for me[,] one about the trip to Olympia and one from Constance and oh such a letter. may I never get another like it. it contained statement's made by Mr's Thomas. I returned home the saddest I ever was and wrote a long reply and then went to bed with the toothache

Mon. 10, — Defended Bruce Garvey in the Recorder's Court, Singer for the prosecution done some other business prepared Early's and Brady's case. drew up a lien from Welch. &c — in the evening went up to Judge's only remained a very short time, then went to the gymnasium and spent the evening Had my tooth extracted. Still felt very bad over Octa's letter.

Tue. 11, — Staid in the office very closely all day, copying answer's in case of Drummond vs Brady & Brady, & Ward vs Ward & Early, — attended two or three time's the gymnasium reced a letter relative to the route to Olympia went up to the Judge's with it, found him gone and spent the evening with the girl's had a fine chat and a lively time. drew up bond on appeal for Bruce Garvey Still felt very blue about Sacramento.

Wed. 12, — At work in the office all day no new business came in prepared case of Drummond vs Crary & in the evening took Annie to the theatre to see the Nelson's play the Extravaganza of the Invisible Prince²⁰¹ stopped

with Annie at the Station House on the way up. went around to Lew's & saw Katy & Florence. came home late.

Thu. 13, — At home in the office all day and quite busy. — Attended the Recorder's Court in the morning and Defended a man for whipping a woman; attended to it for Singer — in the evening attended the gymnasium for a while and then went up and spent the evening with the girl's; wound silk, talked religion; read the Bible &c came home late.

Fri. 14, — Was engaged nearly all day and until 11 O'clock at night in trying the case of Melaney vs Gaylord & Stoddard, for the Dfts. the jury returned a verdict of \$28.00 & costs Campbell, *Judge and oh what a Judge*. Recd a dear kind letter from Constance and partly answered it late at night. The Warren Co to have a benefit on Monday Evening next. —

Sat. 15, — Busily engaged in and about the office all day. also selling tickets for the benefit. in the evening went up to the Judge's and staid until about 11 O'clock. came down town and struck a lot of Douglass boy's on a tight; I joined in with them and we run until nearly morning. had a fine time. . . .

Sun. 16, — Went up in the forenoon and saw Bob Pickersgill; he was crazy and has been so for nearly a week My God what a sight. — Walked around and talked the political future with Lewis found that we needed a leader and had none. now if I had money and age I could be that leader.—²⁰² in the evening went up to Judge's and staid all night.

Mon. 17, — Crawled out at 6 O'clock this morning. Court opened for the term. We had all our cases set, or called. Rowe and I had some 20 on the calendar. — In the evening rigged out in my uniform and attended the Theatre with Miss'es Annie and Ada. Our company had a large benefit. — the play was not very good. The Nelson's gave us the benefit²⁰³

Tue. 18, — Attended Court during the day. won Old Ransom's case for him. done some other little business in Court. was retained to defend two boy's charged with Grand Larceny and a Spanish woman charged with assault with a deadly weapon. — recd a letter from Walter Robinson & one from Ella, telling me who she was. went to the gymnasium in the evening

Wed. 19, — Done no business in Court to day and but little out of it. attended the examination of the two boy's Van Alstein charged with grand Larceny, and waived an examination in the evening Elidas cousin being here I went up an staid a little time with Nellie Wood's. had a long talk with her went to the gymnasium, came home & wrote to Elida

Thu. 20, — Attended Court a little while. took testimony in Divorce case of Campbell vs Campbell before Singer as Referee, in office. McGee and Thomas & Turner had a little shooting scrap appeared for McGee.²⁰⁴ he was bound over bought ring and sent that and a letter to Elida. — Wrote to John Leavitt. attended the Gymnasium in the evening and then came home and went to bed.

Fri. 21, — Attended Court, argued a motion for continuance in the case of

Russell vs Fairbank's and obtained it, done some other little business there and came down to the office. got a Bill of sale for hay from Hanforth. got the Bail reduced to One Thousand Dollar's in the case of Jose Gonzale's, a Spanish female — done some work in the office wrote to Constance Started a letter to George Parry. went to the gymnasium. got some oysters & went to bed.

Sat. 22, — Attended Court during the forenoon it was motion day had pretty good luck. during the rest of the day done some business in the office. in the evening went to Ashford's, to attend to the case of Rodger's vs Atchison for Deft, got it continued until next Monday. Miss Singer sent for me to make up a grape party to-morrow. went up in the evening and made arrangement's

Sun. 22, — Got up in good season. got shaved got a horse and buggy; joined Bill King and he took Ada and I took Annie Singer and we went out after wild grapes. — went out to Isaac's Strain's & he & his son went down on the bank of Feather River with us, & we picked a good lot, took pic nic dinner at his house.²⁰⁵ King & Ada went shooting Annie & I took a long ride & then returned I told her all about my Foster's Bar scrape.²⁰⁶ — in the evening went up to the House & played card's.

Mon. 24, — Hyland's trial for infanticide came off in the District Court. I was busy all day in drawing some lien's upon the WaterWork's for Merriman & Tucker, & drawing a complaint in the same for Welch. in the evening went to the Gymnasium & around with John Collin's & Peter McKeon. Sent up Bill of Sale of Hay to Burn's.

Tue. 25, — Was busy all day preparing and filing Mechanic's Lien's and drawing a Complaint as Intervenor on the part of J C Welch. done some other general business. heard that Elida was coming up in a few day's, — recd letter's from Jim, Earl, and Leavitt, in the evening drew the paper's and commenced a little attachment suit, Hamann, vs, *Henry Cook* Went to the gymnasium a little while.

Wed. 26, — At Court nearly all day. did not get any of my case's on for trial until to-morrow; — a great many down here from up country — in the evening started a little suit in Justice's Court, of Dingman vs Bursk. — George Parry stopped with me spent the evening reading letters[,] talking &c —

Thu. 27, — At Court case of B Cullen called and passed. case of Patrick O Connor v's W H Chapman called, & tried Rowe & I against Belcher, fought it all day and win it. — case in justice's Court settled & I recd 20. as a fee. bought rope and sent up to Burn's to bail Hay, in the evening done a little writing and went around to the gymnasium a beautiful day and evening.

Fri. 28, — Done no business much nor at the Court a little while. Elida came up, went in and saw her found her well but growing more fleshy all the time.²⁰⁷ — Went up in the evening and staid, until about midnight. had a glorious time. — Came home and went to bed. the weather beautiful.

Sat. 29, — During the day drew up some paper's attended Justice's Court and obtained a judgement for Dingman. — in the evening attended the Theatre with Elida and saw the Birch Minstrel's.²⁰⁸ had a very pleasant evening of it, she was as charming as usual. returned home with her and sit up until late. —

Sun. 30, — Spent most of the day at work in my office; in the afternoon called awhile at Judge Singer's. found the Judge very surly[,] the girl's very pleasant. read Jim's letter to Annie; reced a letter from Constance She is very sick God Bless and spare her. — Lida went up to Park's Bar. Drew up some complaints in the evening.

Mon. 31, — Attended Court tried the two cases consolidated of Cullen vs Landgridge and obtained a verdict for the widow of \$400.00 in the evening met at the City Hall & organized a military Company: Dobbin's Captain, McQuaid 1st L.,] Coult 2d L.,] Hubbard 2nd Bre[vet] L.,] Jocelyn [1st] Seargant and myself 3rd Sargeant. — ajourned for a week²⁰⁹ went up and spent the evening with Elida had a devil of a good time

NOVEMBER 1859

Tue. 1, — Attended court a short time, then done some searching authority's and preparing cases; — in the evening drew a Deed from John C Fall²¹⁰ to John H Atchison²¹¹ of the Foster's Bar Bridge property. Had the same acknowledged. Spent the evening with Elida in the usual manner. had a good time. returned home about 12-O'clock — the weather beautiful and pleasant

Wed. 2, — Awoke with a sick headache and had it on me all day long done some writing mortgages[,] assignments for Atchison and copied and served some other paper's. went to bed quite sick. a fire alarm was sounded ended in smoke quite a change in the weather it now being very cool.

Thu. 3, — Done nothing much during the day, a case from Butte Co occupying all the time. Felt somewhat unwell — in the evening drew up a Bill of Sale for O H Dingman from Bursk, and then went up to see Elida, had a good time reading my old journal &c. a Fire brok out. I ran and worked at it; Baldwin's House burned up.²¹² returned and Lide & I put in the time at a hell of a rate until late. Raining quite hard.

Fri. 4, — Raining like thunder all day long, leaking all over everything. remained at home all day no court. hunted up authorities until night. in the evening stole some wood. then went up and saw Elida. Spent the evning as usual. Came home and drew up a statement in the case of the People vs B Garvey. went to bed it still raining hard.

Sat. 5, — Raining quite hard all day attended Court done some business there; Belcher tried to get me into Court on a stipulation & we had some word's, and the Court ordered me to pay cost's. went in the jail came out & went in and saw Elida a little while. in the evning went up to the Judge's, and spent a pleasant evning. hemed an apron for Annie. got scared at my thoughts about death came home — and it was pouring in a deluge

Sun. 6, — Worked in the office all day searching out Criminal Law and preparing to defend my jail bird's. it had rained furiously during the night but ceased in the morning and about noon cleared up splendidly Spent the evning with Elida, as usual. during the evning a fierce squal came up and passed over and the moon now shine's bright and clear, — and it is about 2 Oclock in the morning, I having fallen in and set up with some fellow's

Mon. 7, — Done nothing much in the shape of business done *a little writing &c.* reced a letter from Constance [containing news of her baby's death]. . . . — Saw Elida a little while in the morning, in the evening attended our military meeting and then went up to the Judge's and spent the evening. — Came home.—Oh Dear I feel very sad . . . weather fair

Tue. 8, — Went before the Board of Supervisor's and argued a couple of motion's for John Atchson relative to his Bridge and Rail Road Bond's, and called a short time on Elida. done nothing else of much importance. called on Elida in the evening and had a good time as usual. the weather cloudy and threatening

Wed. 9, — Attended before the Board of Supervisor's in the forenoon, and in the afternoon succeeded in getting the taxe's on the Foster's Bar Bridge reduced \$78.75/100. viz from \$10000.00 to \$6500.00 went to see Elida a few moment's. Raining very hard all day, in the evening had a meeting of the Warren's, transacted some business. after meeting went up and spent an hour or two with Elida. Came back and read some the wind blowing furiously and raining some.

Thu. 10, — At home all day. the wind blowing furiously[,] a light rain driving by spell's and the sky a nervou's bluish dark color. in the evening attended a meeting of our Military Co. and done some business. after the meeting was over, went up and staid with Elida until about midnight. had a great talk about Library, money, — going with other girl's &c. enjoyed ourself's as usual and parted in good spirits

Fri. 11, — At home all day the weather cleared up and was beautiful done no business much drew up a charter for the Hebrew Benevolent Society²¹³ Hitchen's called on me[,] spent the afternoon and evning. called on Elida, and afterward's went to the Gymnasium, and from there home and to bed

Sat. 12, — At home. Jim Hitchen's remained here. done no business much, in the evning attended the Theatre with Elida Saw the Gymnastic School of Mr. French assisted by Brown of Sacramento and some of his pupil's perform; twas very good indeed.²¹⁴ Attended Miss Elida home and remained until late. Spent the evning as usual. She looked charmingly lovely. —

Sun. 13, — Staid at home during the forenoon and in the afternoon called on Miss Annie and had a game of Dominoe's and a long seriou's chat afterward. She felt and acted sad; in the evening called on Elida and spent the evning in usual style. Came home in middling good season and struck for bed. Hitch-en's gone

Mon. 14, — Got up with a slight head ache. attended District Court, argued my demurr to Deft's answer. Court took it under advisement in case of Groves vs Walton & Walton. case of McLaren vs Hutchinson postponed until to-morrow. attended the gymnasium a few minute's, and then went up an spent the evning with Lide

Tue. 15, — Attended court. argued a Demurr[er] against Swezy in the case of McLaren vs Hutchison taken under advisement and Court ajourned until two week's from Monday. — Spent the evening with Elida in the usual manner — the weather beautiful and pleasant.

Wed. 16, — At home and pretty busy all day. commenced a suit for Bennett vs Brook's for some turkey's, also done some other little business. in the morning called on Elida awhile. She went up to Park's Bar with Mat [Woods]. — in the evning called on Annie. spent the evning *knitting, playing cat's cradle's*, and the like. Weather looked a little threatning

Thu. 17, — Went up to old Squire Lofton's on Bear River²¹⁵ to perfect an appeal to the County Court for Deft in an action entitled W B Vineyard²¹⁶ vs James Madison got back to dinner had a regular scamper. the day squally and cool — done nothing else much during the day. Spent the evning with Elida as usual — Hawkins & Hastings called

Fri. 18, — At home. done nothing but read[,] give a little advice &c. wrote to Constance, alias Gertrude Winman, also to Harve Carpenter. reced two letter's[,] one from Jim Slingerland and one from Leavitt went up to jail after dinner. in the evning went to the gymnasium and took about an hour and a half's mighty rough exercise put in the balance of the evning with Elida — Hitchen's stopping with me.

Sat. 19, — At home to day done no business; read some and wrote a long spiritual letter to John Leavitt. in the evening attended a short time at the gymnasium and then went up and staid pretty late with Elida; . . . wound up with a quarrell and a make up.

Sun. 20, — At home all day. wrote some and read a little. George Mix²¹⁷ spent part of the day with me, and took supper with me. in the evening went up to see Elida; set for a long time in Nelly's room and had pie and milk then went and staid in the parlor with Elida had a good time and parted very nicely

Mon. 21, — Attended the Court of Session's at the empannelling of the Grand Jury[;] Lindly Judge, Burn's & Ashford associate's prisoner's brought in and given an opportunity to challenge. — called in to see Elida a moment Sold George Mix my hay. went to the gymnasium and went through a regular drill and then went up and staid awhile with Lide — went over to the salloon & heard some music Burn's came down & staid all night with me.

Tue. 22, — Attended to a little business. drew an answer in Merrill's Court, for Hugh Carr, in case of Simmon's vs Carr, also drove old Tompkin's up to a settlement with Dunn. in the evening called on Annie and staid until 8 Oclock. had a good time She caught me on the ring game.— then went

up and saw Elida and remaind until about midnight; . . . Hailed a little during the afternoon. Raining now

Wed. 23, — At home during the forenoon; in the afternoon with Dunn and Dan Wilson[,] drove a tandem team[,] on a Duck Hunt went over in Sutter below the Butte's²¹⁸ drove down to Jewetts Ranch and took out trap's[,] then went down to some little lake's and tried to shoot some ducks for supper; failed, came up and spent the evning Slept on the floor three abreast.

Thu. 24, — Arose before daylight. Dun and Wilson went out together afoot. Dan Wilson[,] Jewett & myself taking the horses went out together bet the champagne on the hunt we got lost in the tule's and nearly drowned came out at night neither of us having killed a bird. bought 10 Ducks & 1 Goose on our return found the other boy's had the same, & guess they bought their's. came home got home at dark. went up and spent the evning with Elida. had fine time's.

Fri. 25, — Raining as hard as it can pour nearly all day; the wind blowing hard & cold Attended Merrill's Court & plead Hugh Carr's case against Singer who was for Simmon's action for damage's in running into & breaking down a wagon got beat verdict for Pltff for $95\frac{5}{100}$ & cost's. went up to see Elida in the evening had a high old time as usual — Came home late and it storming as hard as it can pour. had a little touch of the blues. —

Sat. 26, — Attended at the arraignment and obtained time to plead for Van Alstine & Granfor's, was appointed by the Court to Defend F Shustor charged with Embezzlement & Grand Larceny. — took a carriage with Barrett[,] Sharkey & Ricket's and went down on Bear River to attend Barretts case could not get across for Water & came back attended Court of Session's. McGee arraigned. remained home and worked all of the evening

Sun. 27, — Spent nearly all the day at home. writing and preparing for Court reced a letter from Octa alias Constance alias Gertrude, complaining of neglect — also reced one on business from Sloss[,] also a partnership mixed one from Walter and Polly;²¹⁹ Spent the evning with Elida had a good time — rained until about 10 Oclock. wrote to Camille.

Mon. 28, — Spent most of the day in the Court of Session's. Argued Demurrer's &c. was appointed by the Court to defend Francisco Biaz a Spaniard Indicted for Horse Stealing who was abandoned by his Counsel Hebbard & Mitchell at the time of trial. defended him and lost the case. spent the evening with Elida after going to the Gymnasium had a good time, a little spat about taking Annie to the Ball on Thursday Evening &c.

Tue. 29, — In Court all day watching the trial of Robert Coral for the Crime against nature jury disagreed and were discharged — done nothing much more. Spent the evening with Elida, finely. the day cool drizzelling, and most disagreeable

Wed. 30, — Got the trial of Cranfors set over until to-morrow and went into the trial of H Van Alstine Made a heavy effort for him but without avail as the jury after being out until late in the night came in with a verdict recomm-

mending that the Court inflict the lightest punishment known to the law. Spent the evning with Elida . . .

DECEMBER 1859

Thu. 1, — Attended Court in the morning. got Cranfor's trial put off, for a time — staid in my office most all day walked home with the Miss Singer's — told them I was going to the party. took Elida to the Merchant's Hotel to a soiree had a fine time, everything passed off finely excep Elida's flirtation with Mitchell — went to bed late; reced a letter & paper from *Stephen A Douglass*

Fri. 2, — Attended the Court of Session's tried Fred Shustor on appointment from the Court, for Embezzlement & Grand Larceny got the Court to instruct the jury to acquit they done so and he was then discharged. the case turned on whether he was a factor or a clerk. — worked all the evning preparing to defend Joe McGee to-morrow, and to get a new trial for Van Alstine.

Sat. 3, — Attended the Court of Session's and tried the Case of Joe McGee charged with an Assault with a Deadly weapon with intent to commit murder²²⁰ when the prosecution rested, I submitted the case with[out] calling any witsnesse's on the ground that the defence had not proved that the pistol was loaded, and obtained a verdict felt good went in and spent a couple of delicious hour's with Lide. Bill Philip's here tight

Sun. 4, — Got up in pretty good season & after getting a little breakfast and doing a little work went up & spent & hour or two with Elida whilst the folk's were gone up to Parks'es — Came down to dinner and remained down until supper. took a walk with Flattery went up on the top of the New Prespyterian church steeple — went up and spent the evning with Lide had a fine time when all were gone away — came home.

Mon. 5, — Attended the Court of Session's and defended John Granfor's. charged with an assault to kill found guilty of an assault to do bodily harm — in the evning went up to Judge Singer's and spent the evening had a good time very cold weather. —

Tue. 6, — Attended the Court of Session's was appointed by the Court with Hubbard to defend James Smith charged with an assault with intent to commit Murder got a continuance until to-morrow Spent the evning with Elida — got a letter from Gertrude and a lock of . . . [her dead baby's] hair run until late. plead a case vs Singer

Wed. 7, — Spent the day in defending James Smith. the jury disagreed and were discharged commenced a suit in Ashfords Court for a horse. Cornish vs Wiegthman went up and saw Elida a few moments came home and done some writing

Thue. 8, — Attended the Court of Session's; in the afternoon and defended Smith again. made the best speech of the term in his defence — the jury found him guilty of an assault with a Deadly weapon, with intent to inflict bodily harm. — went to Signor Biscacciantise's Concert.²²¹ to[ok] Elida.

Vance took Miss William's; came home with Elida and remained until late had a good time —

Fri. 9, — Attended a little while in the Court of Session's and in the District Court. moved for a new trial in the Van Alstine case, and obtained a ruling in my favor in the case of McLaren vs Hutchinson. Attended the Gymnasium in the evening and at 9 O'clock went up and saw Elida spent an hour with her had a good time. Came down town & had an oyster supper with Ridge

Sat. 10, — Went to Ashford's Court and then to the Court of Session's; Biaz sentenced Two year's and John Cranfor's the same. Smith's sentence suspended — done nothing much during the balance of the day. attended the gymnasium a little while in the evning and then went up and staid very late with Elida had a devil of a time. took some oyster's and [?]

Sun. 11, — Spent nearly all day at home preparing the case of Allison vs Kempton[,] argument on Demur then took a stroll. met Weaver went upon on the new church steeple. — Spent the evening with Elida had a good time came away early. —

Mon. 12, — Attended Court. obtained a New Trial for Harrison Van Alstine. was retained and appeared for Margurieta Eilers charged with renting a house for gaming purpose's. got until to-morrow to plead. — was sick with the head ache considerable. went up to see Elida had a good time. came home and went to bed in good season. reced a letter from Constance. wrote part of a reply

Tue. 13, — *Sacred to Gertrude Winman and the love I bear her.*²²² — Attended Court. Smith sentenced 1 year. Margurieta's case continued; reced \$10. from Cornish took my first sparring lesson from Col Taylor. — took my seat in the Board of Delegate's of the Fire Department as Delegate from No. 4 Warren's. was elected Treasurer Went up and spent an hour with Elida. — had a fine time commemorated the day in becoming style.

Wed. 14, — Commenced a suit before Merrill for John Williamson against Ross and Deardoff done some other general business went over to Yuba City to District Court and argued the Demur & the case of Allison vs Kempton. — in the evning took my first lesson in sparring of Col Taylor[,] attended the Gymnasium &c the day pleasant

Thu. 15, — Attended Merrill's Court got a change of venue in the case of Carabuza vs Cornish. — Drew up some paper's for a Spaniard reced \$10.00 for it. took a second sparring lesson. — went up and got Elida and went to the Merchant's to a Ball — She offended me very seriously, by her action's with Mr. — I fear our silver chord is broken — perhap's forever²²³

Fri. 16, — Arose with a sick head ache which kept up its lick all day. went to bed and slept awhile; went up and called on Elida awhile in the afternoon and had a long talk[,] a cry and a half way make up. — in the evning a company of spiritualist's and other's assembled at my office, and S B Collin's

the man of mystery was tied and untied by Spirit's. this beats the devil sure.
12 minutes time²²⁴

Sat. 17, — Attended a little suit for Pacey against Galvin before Merrill for Damages & got beat. in the afternoon went up and saw Elida a little while; in the evning went around and saw Collins at the City Hall preformed satisfactorily. after the preformance the crowd was divided in opinion & betting and quarrelling ran high

Sun. 18, — Arose rather late; done some little work in the office hunting up authoritie's. Rowe was at work drawing a Complaint against Chapman and his suritie's; in the afternoon called on Elida and spent a few moment's parted coolly in the evning went there again and had a full and fair make up and a devil of a good time; — came down to Lowery's and set up late talking &c — cold night

Mon. 19, — Spent the day in my office done a little business collected a little money and took a sparring and gymnasium lesson, and in the evening met a company at Judge Lindleys and saw Collin's tied and untied again made up my mind that he was a humbug. Hank Van Heusen tied him. came down and had a game of billiard's with Mitchell

Tue. 20, — At home all day spent most all of it in door's writing a long Complaint for P O Connor vs Chapman and his suretie's. a heavy cold fog covered everything. in the evning called on Elida after taking a sparring lesson and had a fine time with her. — Came down town late stopped at the Orleans and set up late eating &c

Wed. 21, — Filed Complaint and commenced suit for O Connor. attended Merrills Court and plead the suit of Carabalza vs Cornish and win the same. — took a sparring lesson and then went around to the Gymnasium and had a good heavy exercise. Elida went up to Park's Bar on a visit. the heavy cold fog still prevail's

Thu. 22, — At home all day the weather cold foggy and unpleasant S A Ballou came down. — went to Sparring school, then to the gymnasium and then up to Judge Singer's, and saw the folk's had a fine visit and was protected from a severe lecture by Vet's being present. came home late.

Fri. 23, — At home all day done a little business in the office run around some with Ballou. in the evning went and took a sparring lesson; and then went to the gymnasium and had a good exercise; played billiard's with Vet some came home and wrote a long letter to Octa raining briskly

Sat. 24, — Spent the day in the office hunting up authoritie's. reced a letter from Octa in the evening went to the gymnasium, and the sparring school, and then called on Elida. went into Williams'es and saw the Christmas tree and then went in and celebrated Christma's with Lide. Came down town went to a Nigger Festival & got supper & then went to the Catholic church to high mass, then came down and got on a little burden[?] and went to bed late. raining some.

Sun. 25, — Arose very late cleaned up my office and bed room²²⁵ and went out took a bath &c had a head ache and felt unwell. took dinner at the Merchant's & had a fine dinner too. spent the afternoon with Elida and after supper, came up to the Gymnasium and set & talked until about 9 O'clock, and then came home. raining some & has by spell's all day, & quite cool

Mon. 26, — Spent all day at home. D Lyman[,] W & Ed King²²⁶ spent some time with me; in the afternoon hunted up authorities[,] went out to see a dog fight &c. Geo King retained me to defend the case of Keller vs Hyde[,] Co[unty] Treasurer, on Mandamus — in the evning went to sparring school and then went up to see Elida; had a fine or finer time than usual.

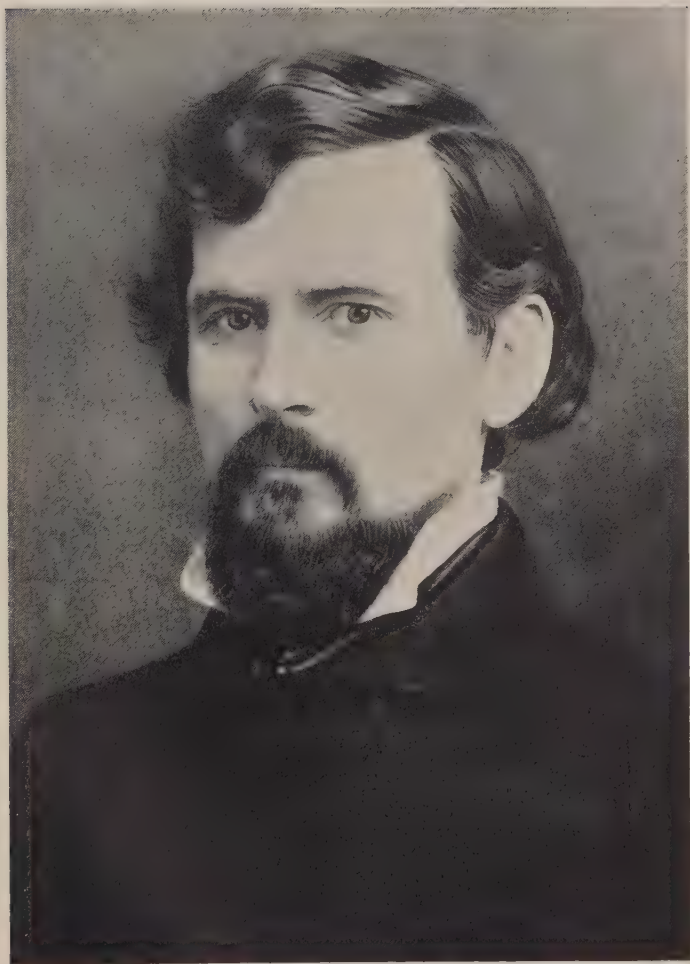
Tue. 27, — Arose early and went and had a Melaniotype taken in a locket for Elida; — then went up to the Court House and got ready my points & came down and spent all day in drawing answer & demur in case of John Keller vs A O Hyde Co Treasurer[;] action by Mandamu's. went to Sparring school and the gymnasium in the evening and had a good bout —

Wed. 28, — Appeared before Judge Bliss at Chamber's, and argued my Demur in the case of Keller vs Hyde; which was overruled; got time until tomorrow to file my answer, copied it during the afternoon.²²⁷ called at King's; called a while on Lide; came down and went to a Liedekrantz Ball; staid pretty late met Annie and Ada. Spent a pleasant evening

Thu. 29, — Busy nearly all day in my office new's of *Brown's being hung* reached here;²²⁸ in the evening went to the Gymnasium and to Sparring school and then went up and saw Elida had a good time . . . the weather extremely cold[;] heavy white frost's; stiffened ground and a little thin ice morning's

Fri. 30, — At work all day in my office, preparing brief's in case's — commenced a little action in Ashford's Court, for O Connor against Gilman, Baylie and Spear. took a sparring lesson; and then went up and saw Elida; they had not moved yet. did not stay long. parted very pleasantly; came home; wrote and read a little and retired

Sat. 31, — Argued the Mandamu's case of Keller vs Hyde; before Judge Bliss at Chamber's and gained it; attended the gymnasium & drew the weights 2100 time's attended sparring school in the evening; then came up and saw Elida passed the old year out in grand style — and as the cannon's and bell's sounded the trumpet note of the New Year; I stood in her embrace; and with a mutual kiss we welcomed his arrival and wished each other a Happy New Year — and standing alone at the midnight hour we speculated upon the future and mutually promised to treasure the hour as dear to memorie's past — Came down town[,] played some billiard's[,] ate some oyster's and came to Bed — Farewell forever 1859 —



EDMUND RANDOLPH

From a photograph (of an oil painting) in the possession of
J. W. S. Butler, of Sacramento.

[At end of Diary for 1859]

OCTOBER — BILLS PAYABLE		
		Paid
17th	To Stein & Co. Tailor's	\$30.00
14"	To Merchants Hotel Paid	25.00
Do	To Do Paid	\$20.00
Nov. 3.	Paid Board Bill at the Merchant's Hotel up to the 1st of November —	\$26.75
Dec. 26	Dr To Dr Teed —	25.00
Dec. 31st	paid bill at Merchant's Hotel up to date	\$29.75

RECEIVABLE

		Paid
14th	From R R Stoddard & Co	30.00
	James Hitchen's	20.00
	Sheriff Plum	31.50
	John Whealdon	75.00
	Arthur Miller	20.00
	John Collin's	20.00
Paid	N E Whiteside's	40.00
	B. C Whiting	15.00
	George A Douglass	20.00
	H C Sloss	10.00
Paid	J O Goodwin	20.00
Paid	G V Fairbank's	7.50
	S M Bliss	100.00
	Peter's of Timbuctoo	10.00

NOVEMBER — BILLS PAYABLE

RECEIVABLE

Paid	P O Connor	\$17.00
	G V Fairbank's	7.50
	[Above entry crossed out]	
	A J Haun	20.00
	Capt Campbell	5.00
	R E Forsyth	19.25
	Blanchard	10.00
	Prescott	2.50

NOTES TO THE JOURNAL FOR 1859 (CONTINUED)

119. "Constance" was the young Sacramento woman who is frequently mentioned as "Gertrude," "Camille" or "Octa." (See Note 52, 1859 and entries for July 6 and Nov. 18 and 27, 1859.) The last was a contraction of "Octavine," and no doubt was the occasion of the use of the term "No. 8" in connection with her. (See Note 127a below.)

120. The Republicans nominated Lewis Cunningham of Marysville for State Senator; William H. Hartwell of Marysville, Samuel Rideout of Galena Hill, George W. Beeny of Sand Flat, Joshua C. Sargent of Dry Creek, and Martin Knox of Brownsville for Assemblymen; L. T. Crane of Clayton's Ranch for County Judge; Isaac Belcher of Marysville for District Attorney, and John H. Atchison of Garden Valley, for Sheriff. (Marysville *Daily National Democrat*, July 5, 1859.) It is said that Crane was not even a lawyer, though his "judicial appearance" caused him for years to be known as "the Judge." (Stanwood.)

121. "Perry's Great European Panorama" was exhibited for several nights at the Marysville theater, the Rev. J. E. Benton giving a "graphic description and instructive lecture upon the scenes" as they passed along. (*Daily National Democrat*, June 28, 1859.)

122. Lewis Cunningham, later a capitalist in San Francisco, was one of the earliest bankers in Marysville. (T. & W., *Yuba County*, p. 53.)

123. Judge Warren T. Sexton, of Butte County, was for many years one of the most prominent men in northern California. Born in New Jersey in 1823, he lived in Michigan as a boy, and attended Ann Arbor, where he obtained honors in the classics but was forced by his father's business failure to drop out before graduation. In 1849 he joined a party known as the "Wolverine Rangers" and crossed the plains, arriving in what was later Butte County in October of that year. His first and only mining was done at Long's Bar. In June, 1850, he was elected County Clerk, and later (1853) became District Attorney. He resided always at the county seat, first Hamilton, then Bidwell's Bar, and finally Oroville, and the early records of the county courts are said to be entirely in his handwriting. Sexton early formed a law partnership with Judge C. F. Lott, and they made an excellent team: Sexton, the diffident but methodical one, skilfully preparing the cases, and Lott the aggressive member handling them in court. Sexton was elected District Judge in 1857, reelected in 1863, defeated (by Lott) in 1869, but reelected in 1875. In 1855 he married Miss Z. Stevens of Rough and Ready, who, with their son and daughter, survived him upon his death on April 11, 1878. (Wells, *History of Butte County*, 1882, pp. 191-92.)

124. Robert T. O'Hanlon was in charge of the Fourth of July celebration, which was held at his resort, "Washington Grove," described as "a beautiful grove of timber, on the bank of the Feather River, a short distance west of the residence of Judge Bliss, and about

one and a half miles distant from Marysville." Prayers by Reverend Walsworth, the reading of the Declaration by W. H. Wickersham, music by a "choir of young ladies" and an *Oration* by Rev. George W. Taylor, made up the program, after which a "Grand Barbecue and Banquet" and a dance kept the celebrators busy. It was advertised that "barrels of pure ice water, with dippers convenient," would be found upon the grounds. (*Daily National Democrat*, July 3, 1859.)

125. Two Piersons, both liverymen and both from Illinois, lived in Marysville at this period. O. H. Pierson's stables were at Third and D Streets, and his residence was on D between Fourth and Fifth. E. M. Pierson kept the "Phoenix Livery & Sales Stables" on E between Third and Fourth, his residence being on Third between D and High Streets.

126. Col. E. D. Baker, of San Francisco, (see Note 127, below) was the Republican candidate for Congress (Northern District). Joseph C. McKibben (see Note 241, 1858) was the Anti-Lecompton Democratic candidate for the same office. McKibben opened and flayed Buchanan and the Administration. Baker followed "in his usual eloquent and felicitous manner," proclaiming himself for free as against slave labor, and in favor of the doctrine of popular sovereignty because he believed it would operate in favor of new free states. Zach Montgomery, the fiery local Lecompton Democrat (see Note 139, 1858), followed with "a short harangue," and Colonel Baker then "peppered Old Zach with a considerable quantity of hot shot," after which Montgomery "returned to the charge." (*Daily National Democrat*, July 7, 1859.) All in all, it must have been a grand evening for the admirers of "oratory."

127. Edward Dickinson Baker, Republican candidate for Congress in the campaign of 1859, was born in London in 1811, but came to the United States with his parents at the age of five, and received his early education in Philadelphia. In 1828 he went to Carrolton, Ill., where he studied law, became a noted advocate, served as a Major in the Black Hawk war in 1832, and for ten years was a member of the State Legislature along with Abraham Lincoln. He went to Congress in 1845, and while a member of that body served as Colonel of the 4th Illinois regiment in the Mexican War. In 1851 he became manager of construction of the Panama Railroad, but went to California in June, 1852, and soon attained a commanding eminence at the bar of the new state, particularly in the field of criminal advocacy. Baker was a powerful "orator," and his ringing phrases resounded in the ears of many a great audience, political and otherwise. He defended Charles Cora, prisoner of the Vigilance Committee of 1856; he lent his powers to Major Snyder, late Superintendent of the Mint, in California's first great embezzlement case, and he pronounced the oration over the remains of Broderick on September 18, 1859, when he delivered his famous invective against duelling. A member of the youthful Republican party, Baker led it through its first strenuous campaigns, but seeing the impossibility of victory in California he proceeded to Oregon in February, 1860, and returned four months later en route to Washington, D. C., as U. S. Senator from Oregon, having accomplished the unprecedented political feat of commanding this high recognition though as yet hardly a citizen of the state. In the Senate Baker at once assumed a peculiar importance, because of his leadership in his party, his acquaintance with Lincoln, and his oratorical powers. He spoke at the great Union Square meeting in New York in April, 1861 (the largest and most important political gathering which had ever been held in the country up to that time), and then proceeded to raise one of the first regiments of the volunteers called by Lincoln. On October 21, 1861, he was killed at the battle of Ball's Bluff, his death creating a profound impression throughout both North and South. (See oration by Edward Stanley on Oscar T. Shuck's *Representative Men of the Pacific*, San Francisco, 1870; also Shuck, *Bench and Bar in California*, San Francisco, 1887, Vol. I, p. 13, and Goodwin, C. C., *As I Remember Them*, pp. 47-55. Baker's most noteworthy addresses were edited and published by Oscar T. Shuck in a small volume entitled, *Eloquence of the Far West, No. 1 — Masterpieces of E. D. Baker*, San Francisco, 1899.)

127a. J. T. Glover was listed in the Sacramento Directory for 1858 as a bookkeeper at 200 J Street, residing at the Golden Eagle Hotel. The next year found him employed by Booth & Co., grocers, the Directory adding, "Boards at Casco House," married, native of New York. It appears that in 1858 he married Octavine [Constance?] Payne (see Notes 52 and 119, 1859) sister of Julia Payne (see entry for March 3, 1859, and Note 185a below) of Mormon Island, near Folsom. Glover later became a partner of Newton Booth in the grocery business, and the Glovers lived for many years at the same address as Booth. Glover died in 1886, and six years later, on February 9, 1892, Octavine Glover married Newton Booth. He had been Governor of California (1871-75) and U. S. Senator (1875-81), and was at the time of his marriage suffering from a cancer of the throat, from which he died on July 14, 1892. William M. Payne, Octavine's brother, and also Julia Payne Dunn, as well as others of the Payne family, were among the beneficiaries under Booth's will, but the bulk of his estate went to "Octa," to whom also he bequeathed five hundred volumes from his library. She continued to call Sacramento her home, but traveled extensively until her death in New York on October 13, 1907. She is buried beside her two husbands, her sisters Eliza Payne and Julia Payne Dunn; her brother, William H. Payne; and Cyrus T. Wheeler, another of

Booth's partners; in the Booth plot at the entrance to the City Cemetery in Sacramento. According to her wish a bequest of \$25,000 for the Newton Booth Chair of Political Economy in the University of California was made by her sister Julia on the latter's death in 1923. (Thanks is due to the California State Library for the unraveling of the mystery of "Octa.") Friends still live in Sacramento who knew her well and speak of her as interesting and captivating, though never beautiful. To young De Long she seems to have possessed a peculiar charm. For sources of the above see *Sacramento Bee*, Feb. 10 and 26, 1892, Oct. 15, 23 and 24, and Nov. 4, 1907; *Sacramento Union*, July 18 and Aug. 18, 1892; *San Francisco Call*, July 19 and Oct. 13, 1892, Oct. 23 and Nov. 14, 1907; and *San Francisco Examiner*, Jan. 8 and March 2, 1923. Re Newton Booth, see Crane, L. E., *Newton Booth of California*, New York, 1894, and Goodwin, C. C., *As I Remember Them*, Salt Lake City, 1913.)

128. The Anti-Lecompton State Central Committee met at the Union Hotel in Sacramento under the chairmanship of Alfred Redington (see Note 273, 1858), B. B. Redding (see Note 271, 1858) acting as Secretary. A program for the canvass of the state by the party's candidates was drawn up. Edmund Randolph, of San Francisco, was nominated for Attorney-General, vice Elijah Steele, of Yreka, who had declined the earlier nomination. J. H. Jewett, of Marysville, then a member of the banking firm of Brumagim & Co. and later a member of the well-known banking firm of Decker-Jewett & Co., was nominated for State Treasurer. He appears not to have accepted this nomination. (See entry for July 9.)

129. Edmund Randolph, born in Virginia in 1818, was a descendant of an eminent Virginia family. He graduated from William and Mary College (the fifth generation of Randolphs so to do) and later practiced law at New Orleans. Coming to California in 1849, he became a member of its first Legislature. Later he associated himself in the practice of the law at San Francisco, with R. A. Lockwood and Frank Tilford. He opposed the Vigilance Committee of 1851. He was retained in many important lawsuits, perhaps the most notable being the case of *United States vs. Castillero*, commonly known as the New Almaden Quicksilver Mine case, in which he was associated with a number of the leading men of the bar in the United States. His tremendous efforts in the case undermined his constitution and he died at the early age of forty-four on September 8, 1861. Randolph was a strong supporter of Senator Douglas, but sided with the South at the outbreak of the Civil War, his last public appearance being on August 5, 1861, when he spoke vehemently against Lincoln's administration. His Address on the History of California delivered before the Society of California Pioneers on Sept. 10, 1859, has been frequently reprinted. (See also Shuck, *Representative Men of the Pacific*, p. 591, and his *Bench and Bar of California*, Vol. II, p. 261.) It was Randolph who, before his change of heart respecting Lincoln, drew up the Resolutions supporting the Union which De Long introduced in the Legislature of 1861. (See entries for January 17 and 18, 1861.)

130. This challenge read as follows:

"Marysville, July 11th, 1859

"COL. H. P. WATKINS — Dear Sir: Having been placed in nomination by the Anti-Lecompton Democratic party of this county for the office of State Senator, and you having received a nomination for the same office from the Administration party, in my humble opinion it behooves us, as candidates for that position, to canvass this county together, thereby giving the people a fair chance to judge of our several qualifications, as well as to determine, from our own statements, whose political position and principles they endorse. Therefore I propose, if agreeable to you, that we make arrangements to that effect, by making out an agreed list of appointments for public speaking throughout the County.

"Please answer soon, stating when and where we, or our friends, may meet to agree upon this arrangement.

Respectfully yours,
C. E. DE LONG."

Watkins apparently refused to accept this challenge, for the opposing candidates carried on their campaigns independently.

131. See Note 124, 1858.

132. The *Daily National Democrat* on July 15, 1859, declared that "An immense course of people assembled, last evening, in front of the Western House." Broderick declared that he found it difficult to enter into "any new field of argument" without an opponent present to answer. He therefore repeated his celebrated Placerville speech, in which he had outlined his conception of the issues of the campaign. As the paper went to press, the editor relates, "Mr. McKibben is yet addressing the multitude with great power and effort." Broderick and McKibben covered the northern part of the state very thoroughly, speaking practically every night.

133. The next morning the *National Democrat* declared that "General Denver bored the people, last evening, with the most ineffably stupid, long-winded, dry, soulless oratorical effort, that they probably ever listened to in their born days. Briefly to state its character, it was a very poor rehash of Mr. Buchanan's pettifogging argument in his special message recommending the admission of Kansas under the Lecompton Constitution.

"He was followed by Hal Clayton in a style so vastly superior to that of the eye-tooth extractor who preceded him, that a good many actually supposed that he was making a splendid harangue. . . ."

134. Declaring that Latham, the Administration candidate for Governor, had not been keeping his appointments for debates with John Currey, his Anti-Lecompton opponent, the Editor of the *National Democrat* proclaimed: "If Mr. Latham is anxious for an opponent he can have one. Our Little Giant of Yuba will meet him, and be glad of the opportunity. To make the thing sure, we hereby invite the Express to signify that Mr. De Long will reply to him on the 26th inst., if he is not afraid to have him do so. . . . Should Mr. De Long have an opportunity of addressing the people, on the 26th inst., he will take occasion to reply to the misrepresentation of his position in the Duncombe case [see Notes 21, 51 and 57, 1859], which the Express has been so diligent in making for the past week or two. . . ."

135. The *National Democrat* on the 26th reported that the Administration Democrats, through their organ, the *Express*, had refused to accept De Long's challenge to Latham. It seems that the *Express* had declared that Latham was "not in the habit of condescending to little things," and the editor of the *National Democrat* stated that "if the *Express* means a fling at Mr. De Long for his small size physically, it is a very poor attempt at wit. . . . For our part we believe that he (Latham) is no match, in an intellectual contest, for Mr. De Long, in any sense whatever. If his friends have so much confidence in his mental prowess, let them risk him to-night in the hands of Charley De Long."

The *Daily National Democrat*, the Anti-Lecompton journal, under the editorship of John R. Ridge (see Notes 136 and 173, 1858) was as partizan though not quite as unbridled in its language as was the *Express*, the Marysville Lecomptonite organ. Unfortunately, no file of the *Express* covering this period has been discovered.

136. Latham (see Note 115, 1859) and John C. Burch, of Weaverville (later Congressman), stumped the State for Gwin and the Lecompton party. Their chief aim was to discredit Broderick. The *National Democrat* on the 27th stated that "Mr. Burch said nothing worthy of attention, and Mr. Latham delivered substantially the same speech that he is delivering all over the country."

137. Annie Singer held much of De Long's real affection regardless of all others. It is apparent that she was a most attractive and worth while young woman.

138. Sand Flat was situated on the Yuba River about ten miles east of Marysville. It was a rich placer camp for several years, and three large ditches—the River, Eureka and Tri-Union—were constructed for the purpose of supplying water to the miners. (T. & W., *Yuba County*, p. 76.)

139. See Notes 81, 1857, and 157, 1858.

140. See Note 86, 1855.

141. Chimney Hill was situated on the Yuba River between Long Bar and Parks Bar. Rich "dirt" was discovered in a hill near the river, and much capital was expended in fluming water to the area. The want of sufficient water for hydraulic purposes and the great depth to bed-rock at this point rendered operations difficult. (Marysville Directory, 1858-59, p. xxiii.)

142. Graham's Ranch was on the old Grass Valley-Wheatland road, near Round Tent (see Note 144).

143. Miss Virginia Vineyard was the daughter of William B. Vineyard of the Oak Grove, some four miles south of Smartville in the lower foothill country. (See Note 211, 1858.) She was therefore De Long's future cousin-in-law, Elida Vineyard's father, James R. Vineyard, being William B.'s older brother. Virginia was born in Wisconsin in 1839 and in 1861 married C. C. Smith, a druggist of Grass Valley. She later studied medicine at San Francisco and went with her husband to Fallon, Nevada, where for some years she was County Physician. She died at Fallon in 1920, survived by two daughters and one son, who still reside there. She was the older sister of William B. Vineyard of the Oak Grove and Marysville. (W. B. Vineyard.)

144. In 1851 one Baker set up a large round tent on the Spenceville road, and the Sacramento-Nevada City stages, which had formerly operated via the Empire Ranch (see Note 4, 1854), changed their route to pass this new "public house." It was in the lower foothills near the W. B. Vineyard place, and considerable surface mining was here carried on during the placer mining period, the place retaining the name Round Tent long after the original tent had disappeared. (T. & W., *Yuba County*, p. 79. For a similar instance of nomenclature survival see Note 53, 1854, re "Nigger Tent.")

145. Camp Far West was established in October 1849 about a mile above the town of Kearney and four and a half miles above the present Wheatland on Bear River, with two companies of infantry under Captain Hannibal Day. The camp was abandoned in May, 1852. (T. & W., *Yuba County*, p. 79; *Grizzly Bear*, March 1908, p. 37.) The original unpublished Letter Book of Captain Day from Oct. 16, 1849, to Jan. 7, 1851, is in the archives of the California State Library.

146. Albion Hill was a small mining camp about a mile from Round Tent on the old Grass Valley-Wheatland road. (W. B. Vineyard.)

147. Broderick's meeting at Sacramento on August 9, 1859, was not only the most important rally during the canvass, but was declared the next day by the *Union* to have been the largest political meeting ever assembled in Sacramento. It was held in the street in front of the Orleans Hotel, and 5000 persons were estimated to have been in attendance. Broderick reviewed the senatorial election question in great detail and finally read Senator Gwin's letter to him of Jan. 10, 1857, in which Gwin agreed that Broderick should control the federal patronage in California. Broderick was followed by Conness (candidate for Lieutenant-Governor), McKibben (candidate for Congress), Dr. J. Powell (candidate for Clerk of the Supreme Court) and General Redington (Chairman of the Anti-Lecompton State Central Committee). The meeting was preceded by a torch-light procession "with transparencies and mottoes." Of this meeting, O'Meara says (*Broderick and Gwin*, p. 206):

"Broderick's greatest effort was at Sacramento, the evening of August 9th, at which General Redington presided. He had been received in great state by an immense concourse at the levee where the line of procession was formed to escort him to the place of meeting. Colonel A. J. Bryant was grand marshal, and the scene exceeded any demonstration ever witnessed in the Queen City. On that occasion, Broderick was not happy in the delivery of his speech; but he proclaimed his line of attack clearly enough, and presented the documents upon which he depended to prove all that he had said and all that he should say during the campaign concerning Gwin, Latham, and Tilford. He spoke to a densely packed crowd of thousands, the greater portion of whom sympathized with him; and while they overlooked his lack of the graces of rhetoric, they tumultuously applauded every stinging, pungent, caustic thrust and weighty stroke he dealt his three conspicuous foes. It was the opening of the charge and counter-charge of rankest political foulness, dishonor, corruption, and humiliation. It compromised himself, but he cared not for this; it laid bare the conduct and rottenness in moral point of view, of his hated and condemned adversaries; and with this he was content."

148. The *New World*, listed in Colville's San Francisco Directory for 1856-57 as "San Francisco and Sacramento Packet, Samuel Seymour, Master," was in 1859 one of the California Steam Navigation Company's most popular boats. She was constructed in New York in 1849 by the celebrated ship builder, William H. Brown, and was of 216 feet keel and 27 feet beam, and of 524 tons burden. In 1850 she was brought around the Horn by Captain "Ned" Wakeman (author of *The Log of an Ancient Mariner*, San Francisco, 1878) and, with the S. S. *Senator*, was at once placed on the Sacramento run. It is said that she left New York because her owners had become financially involved, and in order to save her from the sheriff ordered Wakeman to start out on what was given out as a short pleasure excursion down the bay—an excursion from which she never returned. She was not again heard of for several months, and all save her owners gave her up as lost, until she turned up at Panama and carried a load of gold-seekers to San Francisco. In 1854, when the *New World* became the property of the newly organized California Steam Navigation Co., she was its crack boat, and for years held the record of five hours and 46 minutes from Sacramento to San Francisco. She was later "laid up in ordinary" for a few years, but saw many years of active service in California waters before and after that period, (*Alta*, June 14, 1861.) She was especially chartered by the Anti-Lecompton Democrats of San Francisco to transport them to Broderick's greatest rally.

149. Levi Hite was a member of the Marysville mercantile firm of Decker & Hite, Decker later becoming associated with Jewett in the Decker-Jewett Bank.

James W. Mandeville (Democrat) served as Assemblyman from Tuolumne County in the legislative session of 1853 and 1854, and as State Senator from Stanislaus and Tuolumne counties in the sessions of 1855, 1856 and 1857. He was elected State Controller in 1857 but did not qualify, serving as U. S. Surveyor General, 1857-61. In 1867 he returned to the State Senate, representing Inyo, Mono and Tuolumne counties during the seventeenth and eighteenth sessions. In 1875 he became State Controller, but died at Sacramento, February 4, 1876. (*California Blue Book*, 1907, p. 554.) An interesting series of letters addressed to Senator Mandeville was recently discovered by Albert Dressler of San Francisco, who published them under the title, *Letters to a Pioneer Senator* (San Francisco, 1925).

150. *i.e.* Ada Singer. (See Note 289, 1858.)

151. Hattie was the daughter of John Clay of Garden Valley (see Note 94, 1857) and at the time of the stolen kisses was but twelve years old. Now Mrs. John Hogan, she resides with her sister, Mrs. Letty A. Nelson, at Santa Cruz, and although she does not recall this particular ramble she well remembers that in those days "Charley" De Long often came to her father's house. (Mrs. Letty A. Nelson.)

152. Ramm's Ranch. See Note 10, 1857.

153. There were many Welsh miners in Camptonville and thereabout during the fifties. (Meek.)

154. In a letter signed "Mountaineer," the correspondent of the *National Democrat* (Aug. 21, 1859) states that though Freeman's Crossing is so isolated that smallpox and other diseases do not penetrate to it through the fastnesses of the mountains, nevertheless "the politicians have found us out." The Lecompton candidates who had already been there were said to have worn a "downcast, sheepish look, as though they were ashamed of themselves for the position they occupy before the public." Now came the Anti-Lecomptonites, and "the event of the season for this place transpired last evening. Judge Singer, Charley De Long and Mr. Slingerland came to see us, according to previous notice, and we had a glorious time . . ." Judge O. P. Stidger, of North San Juan, opened with a twenty minute speech and "Charley De Long then took the stand and made a splendid and eloquent speech. All seemed delighted with it, and some who have heretofore expressed a prejudice against Mr. De Long, declared themselves satisfied with his record, and now announce their warmest support of him."

155. By this charming reference to the infernal regions the early miners presented in vivid review the back-breaking qualities of the wild walls of the North Yuba gorge up which the trail wound from Slate Range Bar to the Buckeye.

156. The Buckeye Company built a sawmill in 1851 at a point about a quarter mile above Slate Range Bar. The mill was destroyed in 1853 (T. & W., p. 97), and "The Buckeye" ranch mentioned by De Long was probably a hotel at this spot.

157. The *National Democrat* on August 24 related that the citizens of Eagleville were "most eloquently addressed by C. E. De Long, candidate for State Senator, in which the 'young man eloquent,' in most courteous and gentlemanly language, laid bare the foul blots upon the Administration of James Buchanan, most effectually. Mr. De Long seemed and spoke as if he wore the armour of truth and justice, and was fully able to carry the Douglas Banner into any camp, or into the very stronghold of any foe to the principles of popular sovereignty — and in the end cry, victory! In fact Charley spoke from the record and made many friends for himself and the Douglas cause."

158. The Seneca House was below Eagleville on the La Porte and St. Louis Road. (Marysville Directory, 1858-59, p. 93.) On the 26th the *National Democrat* printed a letter from Strawberry Valley dated the 23d in which it was said: "Pursuant to appointment, our town last evening was the scene of some lively political excitement, and a fine little auditory of about seventy persons assembled to hear an address from the Hon. C. E. De Long, the Anti-Lecompton candidate for State Senator. Many were actuated by feelings of curiosity to see the much talked of and much abused young man, who, despite all of his enemies, seems to obtain position and honor some way. For some reason unknown almost to ourselves, a prejudice against him had settled upon the public mind, which was the reason of his small vote here last year. At 8 o'clock he mounted the stand in front of Berry's Saloon, and opened his speech by stating that he believed this place was the very lair of Lecomptonism, the stronghold of political iniquity; filled with his personal enemies; and that in just such a place as this he was proud and happy to bear the banner of 'The Douglas,' and coming as he did with reason as his only weapon, and truth for his armor, he courted discussion, and as he had enemies present, he also courted their opposition to be then and there made openly, that he might defend himself in the presence of his auditory. None answering, he then proceeded to make a brief and eloquent speech, frequently interrupted with applause. Right nobly did he advocate his cause, and answer the charges that had been made against him by his enemies. He has made friends here for the Douglas cause, and completely silenced the personal calumnies of his enemies."

159. Newton Sewell's ranch was on the north side of Honcut Creek, in Butte County just east of the town of Honcut. It is now known as the Gianella ranch. (Stanwood.)

160. The Honcut House was on the Honcut Road, and at the time here in question was owned by J. Gordon. (Marysville Directory, 1858, p. 93.)

161. Briggs Ranch was a famous early day fruit orchard some three miles east of Marysville adjoining the Yuba River, and near the present "Linda Bridge." (See entry for July 31, 1858.) The *Sacramento Union* on Sept. 20, 1859, reported that, through a local fruit dealer, "we have been favored . . . with a box of superior cling-stone peaches from Brigg's orchard, at Marysville." The hydraulic mining debris of later years destroyed much of the finest of these farm lands along the Yuba, but in recent years the section has been largely replanted to orchards.

162. Dr. W. H. Teed, physician and surgeon, office 59 D St., residence 154 C, came to California from Ohio. (Marysville Directory, 1858, p. 80.) He had served as County Coroner and was well known in his profession throughout the Yuba area.

163. The Northern District Fair was held at the Pavilion in Marysville from August 30 to September 4, 1859. Gabriel N. Swezy (see Notes 87, 1855, and 237, 1858) delivered the "oration" and told the organization of the Northern District Society. Horace Greeley was then in California on his notable tour of the Far West (see his *Overland Journey, from New*

York to San Francisco, in the Summer of 1859, New York, 1860), and honored Marysville with his presence and a ringing speech. He urged the immediate necessity of settling the title to the great areas of fertile land in California which were then in dispute, and he further urged that it be made unprofitable to hold land in large quantities. He spoke of how many men had spoken to him of going "home," and added: "I want people to feel that THIS IS HOME (tremendous applause), and that there is no requirement of them to look for another." (*Union*, Sept. 3, 1859.)

164. The "New Orleans English Opera Troupe" visited Marysville at the time of the Fair, and presented several well-known operas, including *La Sonnambula*, *Bohemian Girl* and *Fra Diavola*. (Advertisements in *National Democrat*.)

165. See Note 173, 1858. Ridge was at this time editing the Marysville *Daily National Democrat*.

166. De Long eagerly embraced every opportunity to meet and become acquainted with all those who had power or influence in the community. Horace Greeley was perhaps the most important man who had come to California up to this time. His position as editor of the great New York *Tribune* made him one of the nation's most looked-to leaders, and his editorials were read throughout the nation. Politically, the Anti-Lecompton Democrats and the Republicans were being inevitably drawn together by the ever-tightening lines of the coming slavery conflict, and Greeley's views could not but be important and interesting to young De Long.

167. Spaulding and Dunn had accused Singer in the columns of the *Express* of being a defaulter to the United States in connection with his army service. He published a strong "card" in the *National Democrat* denouncing this as an unmitigated falsehood and a scurrilous political trick. A short defense of Singer, presumably that written by De Long, appeared in the *National Democrat* on September 6.

168. The *National Democrat* (Sept. 4, 1859) said: "Never before have we seen a larger audience assembled in Marysville, than that which was gathered last evening to listen to those tried and true Democrats of the Anti-Lecompton faith, Hon. C. E. De Long, Judge Singer and Hon. E. D. Wheeler. The Lecompton opposition at the other stand was a poor and miserable looking crowd, in point of numbers, and, compared to the immense gathering of the Douglas party, appeared actually pitiable. In this squad of Lecompton apostates from the true faith, the biggest apostate of all, J. W. Coffroth, held forth in his usual *ad captandam* style." (Coffroth, after having failed of nomination for Congress at the Anti-Lecompton convention [see Note 112, 1859], had joined the Lecomptonite forces.)

169. S. A. Booker, of Stockton, had been nominated for Congress on the Anti-Lecompton ticket, but withdrew at the last moment. (His letter of withdrawal was printed in the *National Democrat* of September 6.) The campaign now drawing to a close had been the most bitter and vindictive ever seen in California. On the 6th the *National Democrat* published an article about the charges of Watkins to the effect that De Long had once tried to inveigle him to go to Sonora, Mexico, on a filibustering expedition and "pillage churches" and the like. Another charge was that De Long had consumed an hour and a half each day in the foregoing legislature in debate, thus costing the state \$30,000.

170. The Republicans realized that there was little hope, and in many places joined forces with the Anti-Lecomptonites, their combined efforts being spent in favor of McKibben for Congress.

171. The words "eventful page; July 4th I wonder what I will record" are written in tiny characters at the top of the blank for election day, September 7, and unquestionably they were inserted by De Long at that place on July 4. On the 4th of September De Long evidently added the words "Still unwritten Sept 4th".

172. On the morning of the election (September 7) the *National Democrat* said:

"Voters of Yuba County!

"Remember that the Senator you elect to-day, will have to vote for a United States Senator before his term expires.— Would you have Dr. Gwin returned? If not, then vote for Chas. E. De Long."

Of De Long the editor remarked, "He is a young man of unblemished character and great promise. He should be enthusiastically supported."

173. The *National Democrat* said (September 9) "From all appearances now, we have not elected a man on our ticket. We are whipped, but as we made the best fight we could, we do not feel disgraced. We'll meet the foe another day. Let them wear their laurels meekly, for we will tear them from their temporary abode in the great battle [of] 1860."

174. The entire Yuba County Lecompton ticket was elected and the vote for state officers at Marysville was: Latham (L. Dem.), 789; Currey (Anti-L. Dem.), 648; Stanford (Rep.), 73. (*Union*, Sept. 8, 1859.) The state results were: Latham, 62,255; Currey, 31,298; Stanford, 10,110. (Davis, *Political Conventions*, p. 708.)

175. The *Union* reported on September 8 that one Simpson had been killed the day before in a row "with pistols and knives" at the polls at "Simpson's Ferry," near Marysville.

The testimony at the Coroner's inquest over his body is printed in full in the *National Democrat* of Sept. 11, 1859. James Simpson was killed while attempting to vote. Later De Long represented his widow in several important matters. "Simpson Lane" in Marysville, near the present Southern Pacific station, commemorates the ferry and later the bridge across the Yuba at this point, which was operated by James Simpson. The Turner boys were fiery southerners and were frequently "on the fight." (Stanwood.)

James B. Sherwood, of Marysville, was found drowned a half mile below Hock Farm, having been missing for four days. (*Union*, Sept. 9, 1859.) He was discovered by the pilot of the down-river steamer, and his body was turned over to the Marysville Fire Department, he having been a member of the Pioneer Engine Co. This was probably "Uncle Jim" Sherwood, listed in the 1858 Marysville Directory as residing at 8 High Street, having come to California from Florida.

The *National Democrat* stated that both men were "well known and much lamented citizens" (Sept. 10).

176. Rossini's opera, *Cinderella, or, The Fairy and the Little Glass Slipper* was presented by the New Orleans English Opera Troupe, which had found such good support in Marysville that it remained for an extra week. Miss Rosalie Durand, Miss Georgia Hodson, Mr. F. Lyster, Miss Ada King, Mr. Frank Trevor, and Mr. F. Boudinot, comprised the company.

177. The Sixth Annual Fair of the State Agricultural Society of California opened in Sacramento on the evening of September 13, 1859, at the newly erected brick "Pavilion" (100 by 140 feet in size), which had been erected on the northeast corner of Sixth and M Streets by the citizens of Sacramento County. The *Union* declared on the date of opening that the main hall of this structure was at that time "the largest clear chamber or public room in the United States." In the center of this hall hung a gas chandelier having fifty-six burners, "the largest in height [sic], circumference and the number of burners in the State," while a "splendid marble fountain brought up from San Francisco for the occasion" occupied a space between the center and rear of the hall, and "Chile's Patent Cement Roof" covered the building. Only a few of the many exhibits were in place on the scheduled opening night, and admission was therefore granted free of charge with the result that a great crowd stormed the Pavilion. The president's "oration" was of a character with the period, and it was suggested that "the time is not far distant—nay, that it will be within the realization of many now before us and witnesses of this day's proceedings—when from the rich conservatories of Spain and the fruitful vineyards of France, fragrant with the aroma of generous wine, will be wrested the palm of superiority by the now dormant, but then teemful valleys of California." (*Union*, Sept. 14, 1859.) The stock grounds were on Q street, between Eleventh and Twelfth and occupied an area 420 by 650 feet. This was about a third of a mile from the Pavilion, and it was advertised that the streets between the two areas were "to be kept well watered during the Fair." (*Union*, Sept. 15, 1859) Colonel Baker made the annual address on the 20th, his speech being fully reported in the *Union* for September 22. Among other things he remarked upon the fact that he had for three months been "engaged in a very animated and particularly unsuccessful canvass. (Laughter)," and he added that "since its close I have been engaged in one of the most mournful duties man can perform, and I came here tonight with my mind preoccupied, and my heart very much crushed." (Referring to Senator Broderick's death, see Notes 180, 181 and 182.)

178. The "Great Original European Panorama" was advertised as "this splendid, elaborate and MATCHLESS PRODUCTION; the labor of years; . . . it speaks for itself, in the strong and glowing language of the painter's art; and in this GROPIUS [the artist] leaves competition to toil after it in vain." (*Union*, Sept. 12, 1859.) The advertisement in the *National Democrat* (Sept. 13) said:

WONDER OF THE AGE!

Albert Smith's Scenorama

of

European and American

Scenery,

Moving figures and statuary!

"Pronounced, during its exhibition in London, New York and the Australian Colonies, as the most beautiful and instructive entertainment ever placed before the public."

There were to be 200 "scenes," including Mexican Battles, The Temptation, The Holy Family, Morning, Adoration of Adam and Eve, and a series known as "The Bottles" by Cruikshank.

179. De Long's partnership with the experienced Rowe at the very outset of his practice unquestionably had much to do with the quick ripening of his legal abilities. The reason for the dissolution of the partnership is undisclosed, but it may very well have been because of political considerations.

180. No detailed account of the Broderick-Terry duel can be given here. It has been the subject of extended comment in works of history and biography. (See particularly O'Meara, James, *Broderick and Gwin*, San Francisco, 1881; Lynch, Jeremiah, *A Senator of the Fifties*, San Francisco, 1911; MS statement of John Currey, State Library, Sacramento; Shuck, Oscar T., *Bench and Bar of California*; Truman, Ben C., *The Field of Honor*; Wagstaff, A. E., *Life of David S. Terry*; also current newspapers and standard histories.) In brief, the circumstances leading up to the duel were as follows: At the Lecompton convention in June, 1859, Chief Justice David S. Terry (see Note 9, 1858) had caustically referred to Broderick and his ilk as sailing under the flag, not of Stephen A. Douglas as they claimed, but rather of the black Frederick Douglass, the former slave who was then active in anti-slavery and abolition circles. The Anti-Lecomptonites, said Terry, were the personal chattels of, and belonged "heart soul, body and breeches" to Broderick. A few days later (June 26) in the dining room of the International Hotel, San Francisco (see Note 38, 1859) Broderick remarked in the presence of Terry's former law partner, D. W. Perley of Stockton, that he had hitherto spoken of Terry "as an honest man — the only honest man on the bench of a miserable, corrupt Supreme Court — but now I find I was mistaken. I take it all back. He is just as bad as the others." Perley challenged Broderick who replied that he would fight no duel during the campaign then in progress. After the election, Terry, on September 8, himself challenged Broderick, and a celebrated series of letters passed between them, resulting in the meeting of the two and their respective seconds and number of spectators at a point just within San Mateo County near the Laguna de la Merced. Much has been written about the disparity in the pistols used by the combatants, they being a pair, known as the "Aylette pistols," which had been brought to the field by Terry. Both had hair triggers, but the one used by Broderick is said to have been exceptionally quick in action. Be that as it may, Broderick fired first, his bullet lodging in the ground some feet in front of Terry, who then fired. Broderick winced, turned half about, staggered in an effort to maintain his footing, and finally drooped and fell. He was hit in the right chest — mortally wounded.

181. Senator Broderick was removed from the duelling ground three-quarters of an hour after he was shot, placed on a mattress in a spring wagon and taken to the residence of his friend, Leonidas Haskell, at Black Point, where he lingered in great pain until September 16, when he expired. It is said (some say apocryphally) that his last words were "They have killed me because I was opposed to slavery and a corrupt administration." Present at the time, among others, were the priest, Father Maraschi, Mr. and Mrs. Haskell, Colonel E. D. Baker, Ex-Governor McDougall, J. C. McKibben and General David D. Colton, (the last two having been Broderick's seconds), John Conness, A. J. Butler and E. J. Moore. A tremendous newspaper controversy at once arose over the sardonic question — which editor feels greater grief over the passing of this man? Duelling was condemned. Terry was damned. The state seethed with excitement. And the general sense of tragedy which followed Broderick's demise is clearly illustrated by De Long's brief account of the reception of the news in Marysville. The campaign had been bitter in the extreme; hatreds had flamed as only political hatreds can; friendships had been broken — and now the leader of the defeated Anti-Lecomptonites had been done-to-death (so they thought, and so do many competent persons still believe) by a conspiracy which had as its sole end the riddance of California, by fair means or foul, of this leader. Terry resigned and ignominiously left the State, the stigma resting upon him throughout his life.

The *Daily National Democrat* appeared on the streets of Marysville on September 17 with heavy black rules between columns and at the heads of its pages. It declared that "No sooner had the telegraph announced the sad event than the whole country was shrouded in gloom and sorrow. The bells were tolled, places of business were draped in the habiliments of mourning, and eyes unused to weep were wet with grief. Well may the people mourn. A great and good man has fallen. 'The noblest Roman of them all' is dead. The bold tongue which was first to assail corruption in high places and proclaim to the world at large the official infamies which had been practiced for years *is still in death*. The high heart no longer beats, the daring spirit is quenched."

There can be no doubt of the profound shock which Broderick's death occasioned throughout the state, and particularly among his erstwhile supporters. Broderick was a vital type of man, a fighter without mercy, and — as De Long clearly shows — a powerful and effective leader. He was no saint, but since "the blood of martyrs is the seed of the Church," regardless of whether or not Broderick's general course was justified it is clear that his death turned the tide that had been setting in against his party. So strong was the feeling of popular indignation against those who were believed to have sought his death, that within a few days after that event it seemed certain that the Lecompton Democrats were riding their last race. And so the event proved, as the *Diary* for 1860 will disclose.

182. In the words of Ben C. Truman (*The Field of Honor*): "From the time that Broderick was wounded the whole city was in mourning. Every consideration was subordinate to anxiety as to his condition. His death was a public calamity. The remains were

brought to the Union Hotel, corner of Kearny and Merchant streets, where they lay in state amid pyramids of flowers until Sunday, the 18th. . . . The funeral took place at half past one o'clock on Sunday afternoon. Before the procession moved, Colonel Edward D. Baker took a conspicuous place on the Plaza, Portsmouth Square, opposite the hotel, and in the presence of a concourse that embraced nearly the entire adult population of the city pronounced a funeral oration. The beauty and eloquence of this tribute to a dead friend are historical." This oration (printed in full in *Eloquence of the Far West*, No. I, edited and published by Oscar T. Shuck, San Francisco, 1899), concluded: "But the last words must be spoken, and the imperious mandate of death must be fulfilled. O brave heart, we bear thee to thy rest; thus surrounded by tens of thousands we leave thee to the equal grave. As in life no other voice among us so rang its trumpet-blast upon the ear of freedom, so in death its echoes will reverberate amid our mountains and our valleys until truth and valor cease to appeal to the human heart. . . . Good friend! True heart! Hail and farewell!"

De Long does not appear to have gone farther than Sacramento on this journey, and thus missed Broderick's funeral.

183. See Note 34, 1856.

184. Exercises at the "Cattle Grounds" were the special program for September 19 at the Fair. By noon, however, it was so hot that "all the ladies and children, and a large majority of the sterner sex" had left the amphitheater, leaving the judges to award the ribbons alone. The judges "stood their test nobly," and a large number of horses, cattle and other livestock were paraded before them. (*Union*, Sept. 20, 1859.)

185. The State Fair was made the excuse for a four day "encampment" of military companies on a field across the Sacramento River near Washington (see Note 30, 1854), where tents were erected to house the men of the following companies: California Guards (light artillery), 40 men, the Marion Rifles, 35 men, and the National Guards, 40 men, from San Francisco; the Sutter Rifles, City Guard and Turn-Verein Guards from Sacramento; and the Stockton Blues (30 "muskets"), Coloma Grays (25 "muskets"), and Placer Rifles. Col. Hooker, U.S.A., a veteran of the Mexican War, acted as Military Inspector and Camp Commandant; Captain Dent of the Knight's Ferry Dragoons was Adjutant, and Lieut. H. G. Gibson, U.S.A., was Quartermaster. General Clark, U.S.A., commanding the Department of California, lent two military bands, and he, together with Governor Weller and Brigadier General Haven, reviewed the troops after their period of instruction. (*Union*, Sept. 19 and 21, 1859.)

185a. Julia Payne, sister of "Octa," married Dunn. (See Note 127a, 1859.)

186. The races, held in connection with the State Fair at the Centerville Racecourse by the Sacramento Jockey Club, were only fairly attended, and the wind sweeping across the field raised such clouds of dust as to cause the spectators much annoyance. On the 21st the *Union* declared that "the road to the track, particularly at the terminus of the branch of the railroad, is in a terrible dusty condition, and whose ever business it is to see that it is sprinkled, should attend to it at once." It was suggested that the railroad, out of its "immense profits," set aside a few dollars a day for this purpose. The women's races on that day attracted a large crowd, including "many ladies," and the *Union* declared on the 22nd that "Notwithstanding this immense crowd, there was not the slightest disorder of any kind, conclusively proving that the presence of virtuous women can add the highest refinement to the Race Track." Just what might have been expected had there been no women present is unfortunately not stated. The "lady equestrians" were not numerous — in fact but three showed up, and one of these had to ride alone. Later the young son of General Hutchinson rode a race with "a young gentleman of this city," of whom the *Union* reporter wrote, "We thought at first the young gentleman was on horseback, but from the manner in which he rolled around from side to side he appeared to be on the hurricane deck of a fishing smack in a heavy sea."

187. This abnegation of stimulants did not last long. See entry for October 15.

188. The first "Presbyterian preaching" at Marysville occurred on Sunday morning, September 8, 1850, when the Rev. W. W. Brier held forth under a large oak tree near the Plaza. That night he preached at the Court House, a room twenty by thirty feet, at the corner of E and Third Streets, then deemed to be "rather far out of town." The next spring a building was erected at D and Third Streets, J. M. Ramirez heading the list of donors with a subscription of \$100.00. Among the active members were Adam Farish, Eli Teegarden, George C. Gorham, Judge E. D. Wheeler and Jesse Goodwin. Rev. I. H. Brayton succeeded Brier early in 1851, and two years later came Rev. E. B. Walsworth. The original church building was burned in May, 1854, and another was erected at D and Fifth at a cost of \$6500.00. In 1859 the needs of the growing congregation made a new church essential and a large building was erected in that year on the same site at a cost of \$33,000. This commodious brick structure, with its tall steeple the construction of which De Long was watching, remains the home of the congregation to the present day. The old church still dominates its portion of the town's most important street, nor has any later building yet overshadowed its classic steeple on which the masons were at work in September, 1859.

189. *i.e.*, Olympia, Washington Territory. Times were dull in California; De Long's and Singer's party had met defeat; the time seemed ripe for a move.

190. The Eleventh Volume of the *Reports of Cases Determined in the Supreme Court of the State of California* (cited as 11 Cal.) was prepared by Harvey Lee, the official Reporter (see Notes 5 and 232, 1858) and was published in 1859, the Court consisting of David S. Terry, Chief Justice, and Stephen J. Field, Peter H. Burnett (term expired Oct. 2, 1858) and Joseph G. Baldwin (qualified Oct. 2, 1858), Associate Justices.

191. Anna Singer evidently knew "a lot" about Charley's escapades.

192. Senator Douglas' long and exhaustive article entitled "The Dividing Line between Local and Federal Authority, Popular Sovereignty in the Territories," was published in the September, 1859, issue of *Harper's New Monthly Magazine* (Vol. 19, pp. 519-37). In this article Douglas reviewed the popular sovereignty issue in great detail, and concluded that "the principle, under our political system, is that every distinct political community, loyal to the Constitution and the Union, is entitled to all the rights, privileges, and immunities of self-government in respect to their local concerns and internal policy, subject only to the Constitution of the United States."

193. Edward S. Snowwhite and Harmon Snowwhite were in the candy and bakery business in Marysville. (*National Democrat*, advertisement, July 19, 1855.) But Edward had been killed by one Sands in August, 1858. (See Note 202, 1858.) Hock Farm was, of course, Sutter's famous ranch and residence on the Feather River a few miles below Marysville. On July 2, 1859, the *National Democrat* carried for the first time the following advertisement:

HOCK FARM

The Handsome and Shady Garden Grounds of the above farm are now open to the public as a place of resort. All kinds of refreshments and all the Fruits and Flowers of the season will be served at the request of visitors.

The Grounds are tastefully and elegantly arranged, and contain many cool and shady nooks, where a person may very pleasantly while away a few hours secure from heat and dust, and free from care.

Persons wishing to spend a little time in recreation out of town, will find HOCK FARM the only place to give them entire satisfaction.

Private parties intending to visit the place, by leaving word at Mr. Snowwhite's Marysville Bakery, can be assured of having everything precisely as they desire it. Visitors will find the place supplied with the very best quality of Wines and Liquors.

The OMNIBUS will leave for Hock Farm every Sunday at 1 o'clock.

W. ALPHONSE SUTTER.

The same paper on July 3, 1859, declared editorially that Hock Farm, the "celebrated residence of the hospitable old Pioneer, General Sutter, has passed into the hands of his son, W. Alphonse Sutter, who has thrown the grounds open to the public . . . Having been virtually a public place, at a dead loss to the owner, it may as well be made actually so with a profit. A more delightful place to drive out to, or to get up private parties at, or to enjoy a cool *tete a tete*, with a friend, whether male or female, cannot be found."

For many years Hock Farm was the favorite picnic place for Marysville organizations. Each year the Turn-Verein, St. Joseph's Society of the Catholic Church, the Grangers, the combined Protestant Sunday schools, the Native Sons and other groups would select their picnic days, hire barges (to be hauled by freight boats), and usually with a band playing, proceed down the Feather River to the Farm, where they would spend a lively day in the dense shade of the giant fig trees planted by General Sutter. (Stanwood.)

194. On Sept. 30, 1859, the *National Democrat* published a long letter from De Long respecting an article in the *Express* which had accused him of making certain improper election promises respecting the United States Senatorship. He stated that since he was not now a candidate for office such an attack was to be considered personal rather than political. He warned the editor that if he should persist in falsehoods against him, he would "resent his conduct as it deserves." On October 2 there appeared another letter in which De Long speaks of the bitter personal denunciation which he had suffered at the hands of the *Express* during the campaign, although the *National Democrat* had never once cast aspersions on the character of his opponent. De Long did not want in personal courage, and in this day of duels he prepared for the worst. (See entry for October 3.)

195. "The Mayor's daughters"—*i.e.*, the Singer girls.

196. P. J. Welch received 76 votes for Chief Engineer of the Fire Department; H. Leland, 55, and M. D. Dobbins, 30. J. W. Curtis and John Barbee were elected first and second assistants, respectively.

197. The *National Democrat* was now loudly proclaiming the candidacy of Senator Douglas for President, "subject to the determination of the Charleston Convention."

198. Anna Singer was evidently keeping close on Charley's trail. (See Note 191.)

199. The Gymnasium was conducted by S. H. French at No. 151, Second St. It was advertised in the *Appeal* for a number of months during 1859 as the "Marysville Gymnasium." (See the *Sunday Appeal*, April 30, 1893.)

200. *"Heath's Gallery.*—The Gallery of this fine Daguerrean artist is well worth a visit. His walls are adorned with many of the female beauties of Marysville, and many of her well known citizens. Few better pictures than his are taken in any part of the world." (Editorial column, *National Democrat*, Nov. 13, 1859.)

201. In the "beautiful fairy extravaganza" of the *Invisible Prince* (see Note 39, 1858) Miss Carry Nelson took the parts of Don Leander, Apollo, and Amazon, and her sister, Miss Sara, that of Abricotina, while Mr. Alfred Nelson appeared as the Infante Furibond. Mr. James Simmonds (the manager) was cast as Benjamin Bowbell in "the laughable Farce, entitled the *Illustrious Stranger*" which commenced the performance, and Tom Maguire was listed in the advertisements as proprietor of the Metropolitan Theater. (*Union*, Oct. 4, and *National Democrat*, Oct. 12, 1859.)

202. De Long's subsequent career leads to the belief that this summation of the situation in his party after the death of Senator Broderick was correct. Money and age were lacking, but his 1860 "come-back" showed his spirit, and had it not been for the submergence of his party in the excitement of civil war he might well have emerged as its leader.

203. The play was "an extravagant Arabian Night's Entertainment," entitled *Camal-zaman and the Fair Badoura, or The Bad Djinn and the Good Spirit*, by Henry J. Byron. Warren Engine Co. No. 4 was the recipient of the benefit.

204. On the 21st the *National Democrat* reported at length this fight between Bob Turner and L. W. Thomas on one side and J. W. McGee on the other. The quarrel arose out of the recent killing of James Simpson by a brother of Turner. (See Note 175.)

205. Isaac Strain owned a ranch of some 320 acres adjoining the Feather River just south of Seymour's Ranch (see Note 97, 1858). Strain's grandsons still live in the vicinity of Marysville. (Stanwood.)

206. In all probability this was the escapade relating to the Fliinn girl. (See entries for April 7 and Dec. 18, 1855, and May 12, 1856.)

207. In later years Elida exhibited this tendency to a considerable degree. However, the next day's entry shows that regardless of embonpoint she remained the one girl for Charley. Whatever the escapade or amorous adventure, he always came back to "Lide."

208. The *National Democrat* on October 30 remarked of "Billy Birch's Minstrels" that "this accomplished and unequalled band of Ethiopian (sic) performers, played last night to another very large audience." The day before it had declared that never did Billy "shine forth in a fuller blaze of comic glory." Sam Wells, George Coes and C. Henry were also mentioned.

209. The officers of the newly organized military company were: Captain, M. D. Dobbins; 1st Lieut., J. C. McQuaid; 2d Lieut., Theo. A. Coult; Brevet 2nd Lieut., C. G. Hubbard; 1st Sergeant, P. J. Jocelyn; 2nd Sergeant, B. Eilerman; 3rd Sergeant, C. E. De Long; 4th Sergeant, D. H. Harvey; 1st Corporal, J. R. Vance; 2nd Corporal, A. Gibson; 3rd Corporal, Frank Qualey; 4th Corporal, W. H. Chapman. (*National Democrat*, Nov. 1, 1859.)

210. See Note 100, 1855.

211. See notes 94, 1855, and 2, 1856.

212. S. D. Baldwin, a jeweler, lived on E street, and notwithstanding the heavy rain his house was largely consumed, most of the furniture also being burned. (*National Democrat*, Nov. 4, 1859.) Superior Judge George F. Jones, of Butte County, is a great-grandson of Baldwin. (Stanwood.)

213. The Marysville Hebrew Benevolent Society was organized in 1853 and in 1855 had forty-two members. It purchased a site for a Jewish burial ground, and dispensed numerous charities. (T. & W., p. 62; Marysville Directory, 1857, p. 114.)

214. The Grand Exhibition of the Marysville Gymnasts, under A. H. French, with music and all the fixin's, including some "amateur acrobats from Sacramento," drew a large crowd. (*National Democrat*, Nov. 12.)

215. "Old Squire Lofton" lived on Dry Creek near its confluence with Bear River (W. B. Vineyard). This "Dry Creek" should not be confused with the more important stream of the same name which is tributary to the Yuba River.

216. See Note 143.

217. See Note 44, 1855.

218. The Marysville Buttes are outstanding topographical landmarks rising from the center of the Sacramento Valley some ten or twelve miles northwest of Marysville in Sutter County. They have borne various names—Marysville Buttes, The Three Buttes, Sutter's Buttes and Sutter County Buttes. Butte County was named for these remarkable volcanic peaks, but since 1854 its boundaries have not included them. They are said to be much older than the Coast Range, and have been deeply eroded since they were first thrown up. Three principal peaks—North Butte, East Butte and South Butte—rise above the generally rough surface of the uplifted area, and a narrow valley, the "South Pass," was for many years a favorite picnic spot for the residents of this region. The old stage road from Marysville to Colusa ran through this valley, and near here Fremont camped on his return from Oregon in 1846 while the abortive Bear Flag affair was planned and executed at Sonoma. (A monument

to commemorate this camp was erected on the spot on April 15, 1923.) The vicinity of these Buttes was the northernmost point reached by the Spanish and Mexican inhabitants of California, Lieutenant Moraga having described them at the close of one of his exploring expeditions. Their rough and wild appearance lends a certain charm to this part of the great valley, and of the Buttes Hutchings declared "This mountain towers boldly out like a large island above the plain on which it stands, to the height of 1800 feet, and is almost as great a landmark to the residents of this latitude, as Monte Diablo is to those of San Francisco." (*Hutchings Magazine*, Vol. III, p. 486, May, 1859.) Gold is said to have been found here by the earliest miners (Marysville *Herald*, July 24, 1851), but the deposit was evidently soon exhausted. In 1867 small veins of coal were also discovered, but not in commercial quantities. (*History of Yuba and Sutter Counties*, 1924, p. 224.)

219. Polly was a cousin of De Long's mother and a niece of his grandfather, Reid Crandall, who brought up the De Long children after their parents' death. Polly lived with the Crandalls and was almost a mother to the young De Longs. (Mrs. D. N. Seaman, daughter of James R. De Long.)

220. See Note 204.

221. Elisa Biscaccianti was the first American singer to receive recognition in Europe. A daughter of the celebrated orchestra leader Ostinelli, she was born in Boston and on her mother's side was a niece of the well-known poetess, Felicia Hemans. Her remarkable voice matured early, and she was educated, at the expense of her father's friends, under several of the most famous maestros of Italy, where she early married an Italian nobleman and accomplished violincellist, much older than herself, one Signor Biscaccianti. After an immense success at La Scala, in Milan, she appeared in Boston and New York, being acclaimed as "The American Thrush" and as one of the world's greatest singers. She carried all before her, particularly in the rendition of the old Irish ballads and Italian operas. In 1852 she accompanied her husband to California, the *Alta* (March 12) speaking of her "coming to our young and glowing shores in the full prime of fresh youth and beauty, to enchant us with an art which we so much need to throw its witching charms over the dull and plodding influence of our daily avocations." Here she sang the popular airs of Italian opera, and delighted the miners with familiar ballads. With her genius, her beauty and her versatility she won their hearts, and the newspaper critics exhausted their vocabularies in flowery praise of "La Biscaccianti." In 1853 she voyaged to South America, where she attained a tremendous success, her carriage being drawn from the theater to her hotel in Lima by her ardent and excited admirers. In 1859 she returned to California, and after an engagement with Lyster's English Opera Company (see Note 176) she found herself at last singing for the revelers of the Bella Union, where the charms of her still-great voice mingled with the noise of gymnasts and the roars and guffaws of the popular negro minstrels. Things went from bad to worse, and finally—perhaps because of her own frailties — one could hear her name bandied about the melodeons as "Whiskac-cianti." She left her husband for George Evans, the well-known orchestra leader, and tales were told of her attraction to "a noted sport." Drink and "dope" had done its work. Later she journeyed to South America where she was once more enthusiastically received. At last she and her husband became reconciled and in 1864 or 1865 he took her back to his old home. He died not long after, but years later, Charles Warren Stoddard saw "Biscy" in Italy, where she was living with her son, a soldier. He found her still fascinating. She died at a home for musicians and artists in Paris in 1896. (Miss Jessie Edwards; also *Sacramento Daily Record-Union*, July 28, 1896; article in *San Francisco Bulletin*, May 5, 1917, by Pauline Jacobson, entitled *The American Thrush*; and "La Contessa" in Charles Warren Stoddard's *Exits and Entrances*, p. 189.)

222. See Notes 52, 119 and 127a, 1859.

223. The silver cord was soon repaired. See entry for December 18.

224. General Rowe, De Long's erstwhile law partner, was for many years a noted spiritualist, and De Long frequently interested himself in spirit "manifestations." He was no fool, however, and kept his eyes open for fakers. See entry for December 19.

225. As was quite customary at the period, De Long saved on rent by having his office and bedroom adjoining, the modern "office building" being as yet unheard of. For a bath, however, he had to go to the public baths, then common in such towns as Marysville.

226. See Note 39, 1856.

227. This was the day of longhand pleadings, laboriously written out and copied by the lawyer himself. The day of the stenographer and typewriter in the ordinary law office had not yet arrived.

228. John (Pottawatomie) Brown was hanged as a traitor at Charlestown, Virginia, on December 2, 1859, despite seventeen affidavits swearing to his insanity. His at first successful but abortive raid on the Harper's Ferry arsenal had occurred on October 16, Col. Robert E. Lee and his marines capturing him two days later. As he was prepared for the gibbet he uttered his famous and prophetic words, "I am worth inconceivably more to hang than for any other purpose."

WESTERN HISTORY

A Check List of Recent Items Relating to California and the West*

ADAMS, ANSEL EASTON, AND AUSTIN, MARY

Taos Pueblo. Photographed by Ansel Easton Adams and described by Mary Austin. San Francisco, 1930. One hundred and eight copies printed by the Grabhorn Press and bound by Hazel Dreis. Title, 2 leaves [14] pages of text, and 12 photographs. Folio.

BAKER, GEORGE H.

Records of a California journey [From Boston to Mazatlan in 1849.] *Quarterly of The Society of California Pioneers*, [San Francisco] December, 1930.

—Records of a California residence [1849-50]. *Quarterly of The Society of California Pioneers*, March, 1931.

BRADLEY, HAROLD W.

Thomas Ap Catesby Jones and the Hawaiian Islands, 1826-1827. *Hawaiian Historical Society, 39th Annual Report*, 1931.

BROWN, WILLIAM S.

California's last war. [The Modoc Indian War of 1872-73.] *Motor Land*. April and May, 1931.

BUCK, FRANKLIN A.

A Yankee trader in the gold rush. The letters of Franklin A. Buck [1846-1880]. Compiled by Katherine A. White [and Mary Sewall Buck Carr]. Boston: Houghton, Mifflin Co., 1930. 294 pp. Illust. 8vo.

CANTON, FRANK M.

Frontier trails. Boston, Mass.: Riverside Press, 1930. 237 pp. Illust. [Autobiography of a western sheriff. Experiences in the Southwest in the seventies and in the Klondike. Edited by E. E. Dale.]

COY, OWEN C.

Josiah Gregg, discoverer of Humboldt Bay. *Motor Land*, May, 1931.

CRAWFORD, LEWIS F.

Rekindling camp fires, the exploits of Ben Arnold (Connor) (Wa-si-cu Tam-a-he-ca), an authentic narrative of sixty years in the old West as Indian fighter, gold miner, cowboy, hunter and army scout. Bismark, North Dakota: Capital Book Co., 1926. 324 pp. Illust. [A "real" narrative.]

DALE, EDWARD EVERETT

The range cattle industry. Norman, Oklahoma: University of Oklahoma Press, 1930. 216 pp. Illust. Roy.8vo. [A statistical treatise.]

DEFENBACH, BYRON

Red heroines of the Northwest. Caldwell, Idaho: 1930. 303 pp. Illust. [Sacajawea and others.]

DOUGHERTY, LEWIS BISSELL

Experiences of Lewis Bissell Dougherty on the Oregon Trail. Edited by Ethel Massie Withers. *The Missouri Historical Review* [Columbia], Vol. XXIV, No. 3, April, 1930, to Vol. XXV, No. 3, April, 1931.

* Readers will confer a favor by furnishing out-of-the-way items for notice in this department. We shall cite books, pamphlets, broadsides, magazine and important newspaper articles of historical value. Send to the Secretary of the Society the items themselves or a card with the title written in the form used here. — Charles L. Camp.

DOUGLAS, SIR JAMES

Diary of Sir James Douglas, 1840-41. With introductions and notes by Herman A. Leader. *The Oregon Historical Quarterly*, Vol. XXXII, Nos. 1-4, March to December, 1931.

ELLIS, ANNE

The Life of an ordinary woman. New York: Houghton Mifflin Co., 1929. xii & 301 pp. Illust. 8vo. [The mining camps of Colorado and Nevada. An extraordinarily vivid autobiography.]

EVANS, JOSEPH

Around Cape Horn with Colonel Stevenson's regiment in 1846. *Quarterly of the Society of California Pioneers*. December, 1930.

FERRIER, WILLIAM WARREN

Origin and development of the University of California. Berkeley: Sather Gate Book Shop: [1930]. Frontis. 710 pp. 8vo.

—The story of the naming of Berkeley. Reprinted from the *Berkeley Daily Gazette*, 1929. 22 pp. [Pamphlet.]

FISHER, LILLIAN ESTELLE

The Intendant system in Spanish America. Berkeley: University of California Press, 1929. 385 pp. 8vo.

GHENT, W. J.

Life story of a forgotten pioneer [Thomas Fitzpatrick]. *The Sunday Star* [Washington, D. C.], Feb. 9, 1930. pp. 10, 18, illust.

GOODRICH, MARY

The Palace Hotel. San Francisco, 1930. 38 pp. Illust. 8vo.

GREGG, JOSIAH

New-found letters of Josiah Gregg, Santa Fé trader and historian. With introduction and notes by John Thomas Lee. *Proceedings of the American Antiquarian Society*, April 16, 1930. Worcester, Mass., 1931

HAFEN, LEROY R., AND GHENT, W. J.

Broken Hand. The life story of Thomas Fitzpatrick, Chief of the Mountain Men. Denver, Colo.: The Old West Publishing Co., 1931. 316 pp. Illust. 8vo. [The first biography of one of the outstanding figures of the days of the fur trade and the first overland emigrants.]

HANNAFORD, DONALD R., AND EDWARDS, REVEL

Spanish Colonial or Adobe Architecture of California, 1800-1850. New York: Architectural Book Publishing Co. Inc. [1931]. viii + 110 pp. of illust.

JONES, DAVID RHYS

Trails of a trapper. Jedediah S. Smith, California explorer and map-maker. *Motor Land*, January-March, 1931.

KEARNY, THOMAS

Concerning Fremont [also Stockton and Kearny]. *Argonaut*, San Francisco, Feb. 14, 1931.

LEESE, JACOB PRIMER

The Leese Scrap Book. [Letters and documents that once belonged to Jacob P. Leese.] *Quarterly of The Society of California Pioneers*, March, 1931.

McMURTRIE, DOUGLAS C.

An Introduction and supplement to a history of California newspapers. Student Press, Roosevelt Junior High School, San Francisco, 1931. Reprinted from the *Quarterly of the California Historical Society*, Vol. VII, 1928, 12 pp. [Pamphlet.]

MULDOON, S. J.

Alexander Hamilton's pioneer son. The life and times of Col. William Stephen Hamilton, 1797-1850. Harrisburg, Penn.: The Aurand Press, 1930. 246 pp. Illust. 8vo. [Colonel Hamilton died in California, under mysterious circumstances, during the gold rush.]

OSBORN, H. F.

Cope: master naturalist. The life and letters of Edward Drinker Cope with a bibliography. Princeton, N. J.: Princeton Univ. Press, 1931. 750 pp. Illust. [Cope was a fossil hunter, naturalist and geologist in the West in the seventies.]

O'SHAUGHNESSY, M. M.

Hetch Hetchy project. 1930. 8 pp. 8vo. [A pamphlet issued by the Department of Public Works, San Francisco.]

[See also, by the same author:] Hetch Hetchy water supply. Bureau of Engineering of the Department of Public Works, San Francisco, Oct. 1925. 47 pp. Illust. 8vo.

PARKER, GENERAL JAMES

The Old army, memories, 1872-1918. Philadelphia, Pa.: Dorrance and Co., 1929. 454 pp. Illust. 8vo. [Service on the old Western frontier.]

PORTER, H. M.

Pencilings of an early western pioneer. Denver, Colo.: privately printed, The World Press, 1929. 198 pp. 8vo. [Building of the overland telegraph, history of the Maxwell Land Grant Co., and other western sketches.]

RINEHART, MAJOR WILLIAM VANCE

War in the great Northwest. *The Washington Historical Quarterly*, April, 1931.

STEWART, GEORGE W.

Early Governmental attempts at forest conservation. Reprinted from *Sierra Club Bulletin*, San Francisco, 1931. [Pamphlet.]

TOWNSEND, C. H.

The fur seal of the California islands, with new descriptive and historical matter. *Zoologica* (New York Zoological Society), Vol. 9, 1931, pp. 443-457, figs. 345-356. [Includes notes on the hunting of this formerly abundant species which is now at the verge of extinction.]

TREADWELL, EDWARD F.

The Cattle king. A dramatized biography [of Henry Miller.] New York: MacMillan, 1931. 367 pp. Illust. Map.

VENEGAS, MIGUEL

Juan Maria de Salvatierra of the Company of Jesus; missionary in the province of New Spain, and apostolic conqueror of the Californias. Translated into English; edited and annotated by Marguerite Eyer Wilbur. Cleveland: The Arthur H. Clark Company, 1929. 350 pp. Illust. 2 maps.

WOODBURY, ANGUS M.

The Route of Jedediah S. Smith in 1826 from the Great Salt Lake to the Colorado River. *Utah Historical Quarterly*, Vol. 4, April, 1931, pp. 34-36, maps. [Brings Smith to the headwaters of the Sevier River and down the upper valley of the Virgin River.]

A RECENT BOOK

Last Adventure, San Francisco in 1851. Translated from the Original Journal of Albert Benard de Russailh by Clarkson Crane. San Francisco: The Westgate Press, 1931. xviii, 95 pp., illust.

In this little book the Grabhorn brothers have made for "The Westgate Press" one of the most quaintly delightful California "items" of many a long day. The journal, written in reminiscent vein by a young Frenchman who died of cholera in San Francisco in 1852, details his thoughts with respect to living conditions, gambling, the theater, the women of San Francisco, the Vigilance Committee, the police, the great fires, politics, race mingling and many another phase of the city's unsettled life during 1851, while the author was struggling to earn a living as shop-keeper, bar-tender, journalist, architect, and even theatrical producer. His account of his experience with the toothpicks is delicious.

Coming from France, Benard found the Anglo-Saxon a peculiar individual. "It is difficult," says he, "not to conclude that the Americans are a savage and primitive race. They have all the characteristics of savages and think only of death and slaughter. They always carry revolvers, and they draw them on the least provocation, and threaten to blow your head off. I often wonder if this great people will revert altogether to barbarism." Of their determination in the face of difficulties he has, however, no doubt. Thus he records, after the great fires, that such was American activity that "even while his house is burning, an American will think only of how to rebuild it. He lets his friends save the furniture, jumps on his horse, and gallops like mad to the next town, so that he can arrive before the news of the fire and buy building material before the prices have gone up."

The numerous illustrations are reproductions of early "letter sheets" representing events mentioned by the author, and are admirably printed on blue paper such as was used for the originals. Sewn into the book is a tiny reproduction of "The Spirit of California," a dramatic (?) prologue by Benard, performed at the Jenny Lind Theater on April 10, 1851. In the hands of an ordinary printer the use of these reproductions in this manner might well have rendered the book fantastic, but in the ingenious hands of the Grabhorns it has served to heighten the quaint charm and originality of the little volume. As a picture of the life of the period Benard's all-too-short jottings are invaluable.

CARL I. WHEAT.

MEETINGS OF THE SOCIETY

The Society held a luncheon meeting on Tuesday, March 24, 1931, at the Clift Hotel.

Mr. Ernest A. Wiltsee, on behalf of Mrs. Charles N. Felton and Mrs. Kate Felton Elkins, presented to the Society the morocco leather blotting portfolio of the late Senator David C. Broderick, making reference to the important part played by Senator Broderick in the early days of California's statehood.

Professor Herbert I. Priestly, of the University of California, was the speaker of the day. His subject was "The Californian and His History." After outlining the mental process of an individual awakening to an interest in historical matters, as beginning with himself and expanding as he sought the causes of the events around him, he showed how, inevitably, he would again be led to a series of antecedent causes and events. Often this process leads in unexpected directions and to distant and apparently unrelated places. Such results are sure to follow in the study of California history, for all parts of the world contributed to the story. Professor Priestly concluded with a brief description of the collection of authorities in the Bancroft Library at the University of California and of the kind of work that was being done to make it available.

There were eighty-three members and guests in attendance.

On Tuesday, April 21, 1931, the Society held a luncheon meeting at the Clift Hotel. Mr. John Howell was the speaker: his subject, "The First Printing in California — The Mexican Press, Monterey, 1831-34." To illustrate his talk he had a number of documents on government stamped paper, bearing printed dates during these years. The year 1831 is earlier than any date that has heretofore been assigned to printing in California. Apparently the press used to print the documents was a hand press of Mexican manufacture. This must have been the hand press referred to by Kemble and Bancroft, and, being the only press in California until 1834, was the press used to print Figueroa's Proclamation, on January 16, 1833. This had formerly been considered to be the earliest printing in California. Mr. Howell showed by numerous examples that the identical Mexican type was used in all the printing of that press, and called especial attention to the fact that the "a" with the grave accent was used in the Figueroa Proclamation as well as in the other examples of Mexican printing exhibited, while the examples from the Spanish or Boston press had been printed with American type and did not have the grave accent.

In honor of the one hundredth anniversary of printing in California, Mr. Howell presented to the thirty or more members and guests in attendance, folders giving the important printing dates, which he had had printed by the Grabhorn Press.

The Society held a luncheon meeting at the Clift Hotel on Tuesday, May 19, 1931. Professor Edgar E. Robinson addressed the Society. His subject was,

"Milton S. Latham—Congressman—Governor—Senator." He told the Society that Stanford University had the diary of Mr. Latham which covered the period from the days of the convention which nominated him for Governor of California, through the early part of his term as United States Senator. Before reading excerpts covering the more important events mentioned in the diary, he gave a brief account of Latham's life before he entered public life. He also read various newspaper articles from friendly and hostile sources, appraising some of his acts and motives. When the time was reached when Latham spoke for himself, Professor Robinson gave interesting descriptions of the events that evoked Latham's comments. He also outlined the struggle between the Buchanan and Douglas wings of the Democracy with both of whom Latham flirted. He closed with a brief estimate of the character disclosed by the personal record.

Mr. Everett N. Bee presented to the Society at this meeting the following: A lithograph of Placerville, published by Albert W. Bee in 1851; a copy of a daguerreotype showing the store of A. W. and F. A. Bee and Adams & Co's Express office at Placerville; a pictorial letter sheet with humorous sketches of incidents in the life of an early day miner; the commission of Albert W. Bee as a Quartermaster of the California Volunteers; his commission as a First Lieutenant of the Placerville Guards; and a History of the Old Indian War Debt of California. Mr. E. A. Wiltsee spoke for Mr. Bee and outlined the career of his father, Albert W. Bee. Albert Bee arrived in San Francisco on June 30, 1849, and went at once to Placerville, where, after winning success as a gold miner, he started a merchandising business in partnership with his brother, F. A. Bee. The Bee brothers constructed the first telegraph line across the Sierra to Carson Valley, and Albert Bee was largely instrumental, through his negotiations with eastern companies and consolidation of western companies, in bringing into being the transcontinental telegraph. This was completed in October, 1861, and the next year Bee went to Austin, Nevada, again to engage in mining. He died in Austin in 1863.

There were between fifty-five and sixty members and guests present.

ANSON S. BLAKE.

AMENDMENT TO THE BY-LAWS

At the meeting of the Board of Directors held on June 4, 1931, the amendment to Article VIII of the By-laws, passed on July 8, 1924, and consisting of the phrase, "or if he be elected between October 1 and December 31, the sum of Eight Dollars," was stricken from the By-laws and in lieu thereof the following amendment was passed:

Any person elected to membership after the first of April of any year shall pay dues of \$7.50 for the remainder of that year; anyone elected after the first of July shall pay dues of \$5.00 for the remainder of that year, and anyone elected after the first of October shall pay \$2.50 for the remainder of that year.

It is understood that, under the above rule, members elected during the second quarter of the year will receive only three *Quarterlies* for the current year; members elected during the third quarter will receive only two; and those elected during the fourth quarter will receive only one. The annual dues of \$10.00 for all members will be due as usual on the second Monday in January.

NEW MEMBERS

Patron

Spreckels, Mrs. Adolph B., San Francisco

Active

Booher, David N., Los Angeles, California
Carolan, Miss Emily, San Francisco
Collier, Mrs. Robert Haskell, San Francisco
Dibblee, Harrison, San Francisco
Garceau, Mrs. Alexander, San Francisco
Gerstle, William L., San Francisco
Getz, Milton E., Beverly Hills, California
Graff, Everett D., Winnetka, Illinois
Hammond, John Hays, Washington, D. C.
Hooper, Mrs. Arthur, San Francisco
Morse, Samuel F. B., San Francisco
Newbauer, Julian H., San Francisco
O'Shaughnessy, M. M., San Francisco
Segerstrom, Charles H., Sonora, California
Symington, Mrs. Powers, Kentfield, California
Volkman, Mrs. Daniel G., San Francisco